



An
Bord
Pleanála

Inspector's Report PL.08.248014

Development	House.
Location	Landsdowne Village, Mucksna, Kenmare, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	16/1141
Applicant(s)	John McCarthy
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	None
Date of Site Inspection	26 th April 2017
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The subject site is located on the outskirts of Kenmare off the Glengarrif Road (N71).
- 1.2. The appeal site is located within a housing estate development comprising of terraced and semi-detached two-storey houses. All the houses within the development have rear gardens.
- 1.3. The appeal site is located in the western corner of the existing development at the end of a cul-de-sac.
- 1.4. The front of the appeal site adjoins a turning circle.
- 1.5. The established car parking provision within the existing development is on-street car parking.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a dwelling.
- 2.2. The proposed dwelling is two-storey in height and has a floor area of 141 sq. metres.
- 2.3. The floor plan of the ground floor comprises of living space and the first floor consists of 4 no. bedrooms.
- 2.4. The maximum height of the proposed house is 7.6 metres above ground level.

3.0 Planning Authority Decision

Kerry County Council decided to **refuse** planning permission for the following reasons ;

1. The Planning Authority is not satisfied on the basis of submissions made in relation to the application, that a rural housing need has been demonstrated in accordance with Objective RS-7, of the Kerry County Development Plan, 2015 – 2021, having regard to the location of the application site in an area designated a Rural Area Under Strong Urban Influence. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would result in an unacceptable encroachment of the permitted green area / open space serving the overall Landsdowne Village housing development and would thereby seriously injure the residential amenities of property in the vicinity. The proposed development would contravene materially conditions no. 1 and 3 attached to an existing permission for development on site, Planning Reg. No. 00/3490. The proposed development, would therefore, be contrary to the proper planning and sustainable development of the area.

3.1. Planning Authority Reports

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

Area Planner

- Visual impact not an issue.
- The proposal would represent development on a piece of ground originally designated as public open space for the development of 18 no. houses. (L.A. Ref. 00/3490).
- The site is zoned Rural Secondary Special Amenity and is designated as a Rural Area Under Strong Urban Influence.
- There is no likely potential for significant effects to Natura 2000 Sites.

3.1.2. Submission; - There is a submission from Irish Water who request additional information requiring clarification of how it is intended to connect to public sewer and public water main. There is also a submission from Transport Infrastructure Ireland who have no observations to make.

3.2. **Third Party Observations**

There are no third party submissions.

4.0 **Planning History**

- L.A. Ref. 98/2264 – Permission **granted** by Planning Authority to construct 19 no. dwelling houses, retain and complete service road. Following a third party appeal An Bord Pleanala (appeal ref. 117209) **refused** permission.
- L.A. Ref. 00/3490 – Permission **granted** to construct 18 no. dwelling houses, retain and complete service road.
- L.A. Ref. 02/182 – Permission **refused** for the construction of an extra dwelling.

5.0 **Policy Context**

5.1. **Development Plan**

The operational Development Plan is the Kerry County Development Plan, 2015 – 2021. In accordance with the settlement strategy. The appeal site is located in an area designated ‘Rural Areas under Strong Urban Influence’.

The following policy objectives are relevant;

- RS – 7 – Ensure that favourable consideration is given to individual one – off house developments for immediate family members (sons, daughters, favoured niece / nephew) on family farms and land

holdings; subject to compliance with normal planning criteria and environmental protection.

- RS – 8 – Give priority to the completion of unfinished dwellings and the occupation of vacant units in preference to new residential development for persons who are an intrinsic part of the rural community which they are proposed.
- RS 9 – Facilitate the housing requirements of the rural community.

6.0 National Guidelines

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

The following is the summary of an appeal submitted by Frank Curren, Consulting Engineers Ltd, on behalf of the applicant;

- The proposed development is not located in a rural area. The appeal site is located in an urban area where services are available.
- Policy RS-7 of the County Development Plan is therefore irrelevant to the proposed development.
- There is 38% open space which is in excess of the County Development Plan requirement of 15%.

- The site can be extended to increase the open space provision.
- The proposed development would be utilising all services.

8.0 **Assessment**

- Principle of Development
- Impact on Established Residential Amenities
- Residential Amenities
- Appropriate Assessment

8.1. **Principle of Development**

- 8.1.1. The local authority refused permission for the proposed development on the grounds that the proposal would be contrary to the rural housing policy of the Kerry County Development Plan, 2015 - 2021. However the appellant argues that the proposed development is an urban development as the application is for a house with an existing housing estate development and the site is fully serviced.
- 8.1.2. As such a question arises whether the appeal site can be considered a rural site and whether therefore the rural housing policies would apply or whether the appeal site is an urban site. The Sustainable Rural Housing Guidelines, 2005, define rural areas as 'areas outside of urban areas with a population of 1,500 and over'.
- 8.1.3. I have reviewed the Kenmare Local Area Plan, 2010 – 2016, and I would note that the appeal site is located outside the town boundary of Kenmare and as such the proposed development, in my view, can be considered a rural development. I would acknowledge that there is an established housing development of 18 no. houses adjacent to the appeal site however the proposed development for a single house is outside a town boundary and therefore situated in an area designated rural in the County Development Plan and in my view would be consistent with the definition of rural area in the Sustainable Rural Housing Guidelines, 2005.

8.1.4. In accordance with the settlement strategy of the County Development Plan the appeal site is located in an area designated 'Rural Areas under Strong Urban Influence'. In these designated areas the onus is on the applicant to demonstrate that they have a genuine rural housing need. In accordance with the County Development Plan a genuine rural housing need is a person who is an immediate family member of a farm family or person who are an intrinsic part of the rural community. The applicant has not demonstrated compliance with any of the categories of housing need for Rural Areas under Strong Urban Influence.

8.1.5. Therefore, I would not consider that the applicant would comply with the rural housing need policies and the provisions of the Kerry County Development, 2015 – 2021, 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. **Impacts on Established Residential Amenities**

8.2.1. The local authority's second refusal reason states that the proposed development would unacceptably encroach on a permitted green space. This permitted green space is associated with the established 18 no. dwellings adjoining the appeal site.

8.2.2. I noted from my site inspection that the site in which the house is proposed is effectively a vacant site and is currently not used for any purpose. It is notable that there is a small area of woodland situated to the immediate north and west of the appeal site however I would consider based on a visual observation that this is not usable open space. There is also an area, indicated on the site layout plan as open space, situated to the south of the appeal site and located on the opposite side of the estate access road and this area is a planted bed. As such this area is not a usable open space as such.

8.2.3. The appeal submission states that the public open space provision serving the existing 18 houses is 38% of the site area. I would acknowledge that this would represent a high quantitative standard in relation to the development plan

requirements. However although 38% is stated in the appeal submission it is not supported by any documentary evidence such as a permitted site map from L.A. Ref. 00/3490. In addition I noted from a visual observation of the area, as outlined above, that a significant portion of the open space as indicated in the submitted Site Layout Plan (scale 1:500) is not usable open space. Therefore I would support the Local Authority's second reason for refusal.

8.3. **Residential Amenities**

- 8.3.1. In terms of considering residential amenities for future occupants the proposed two-storey detached house would provide an adequate floor area which would offer future occupants a good standard of residential amenity. The private open space provision on offer for the proposed house is approximately 88 sq. metres which is an acceptable level.
- 8.3.2. Overall the residential amenities on offer for the future residents of the proposed house would be acceptable.

8.4. **Appropriate Assessment**

- 8.4.1. The proposed development will be served by public water mains and public sewage. Therefore having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a fully serviced location, no appropriate assessment issues arise.

9.0 **Recommendation**

- 9.1.1. 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 reasons set out below.

10.0 Reasons and Considerations

1. The proposed development is located in an area designated as a rural 'Area under Strong Urban Influence' in the Sustainable Rural Housing Guidelines for Planning Authorities (Department of Environment, Heritage and Local Government 2005) and within an area designated as 'Rural Areas under Strong Urban Influence' in the Kerry County Development Plan, 2015 - 2021. National and local policy seeks to restrict housing in unserviced rural areas to applicants who have demonstrated a genuine need to live in such areas. The applicant has not demonstrated an exceptional rural housing need in relation to the subject site, the proposed development would lead to demands for the uneconomic provision of public services in an unserviced rural area and would be contrary to Policy Objective RS-7 of the Kerry County Development Plan, 2015 – 2021, set an undesirable precedent and therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of consequent reduction in public open space for the existing development, would provide an inadequate provision of public open space to the established housing development inconsistent with planning permission granted under L.A. Ref. 00/3490 and would set an undesirable precedent for similar type of development in the area. The proposed development would therefore set an undesirable precedent in the area, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector

25th May 2017

