



An
Bord
Pleanála

Inspector's Report PL88.249251

Development	Construction of a dwelling house adjoining existing agricultural structure, wastewater treatment system and all associated site works.
Location	Tralong, Rosscarbery, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/779
Applicant(s)	Noel & Nora Flavin
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	Jonathan Self Conor Kinsella
Observer(s)	None.
Date of Site Inspection	18 th December, 2017
Inspector	Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located in the rural townland of Tralong, Co. Cork, approximately 3.0km southwest of the village of Rosscarbery, where it occupies a relatively elevated and exposed position on a small coastal promontory / headland which overlooks a narrow inlet known as Tralong Bay to the west. The surrounding coastal landscape is characterised by rolling agricultural fields which rise over the bay below with intermittent instances / groupings of one-off rural housing and associated outbuildings. The site itself has a stated site area of 0.37 hectares, is irregularly shaped, and presently comprises a small plot of land occupied by an existing agricultural shed and a section of the neighbouring agricultural field to the north of same. The prevailing site topography is characterised by a steep fall westwards towards the bay / shoreline. Access to the site is obtained via a narrow and poorly surfaced private track which extends alongside the eastern site boundary from the public road further north before continuing southwards towards the periphery of the headland to provide access to surrounding agricultural lands and a substantial dwelling house.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a 'cottage'-style dormer dwelling house based on a principle rectangular plan (with a single storey annex to the rear of same) with a stated floor area of 116m² and a ridge height of 6.096m. The overall design of the proposed dwelling house is based on a somewhat conventional interpretation of the 'cottage' vernacular and has sought to utilise traditional architectural features such as vertically emphasised fenestration and a simple eaves detail in an effort to evoke same. External finishes will include black roof slates, a plaster render, and hardwood doors.
- 2.2. Access to the site will be obtained via the reconfiguration of an existing entrance arrangement. It is also proposed to install a septic tank system and percolation area whilst a water supply will be obtained from an existing private well on site.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of a response to a request for further information, on 23rd August, 2017 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 22 No. conditions. These conditions are generally of a standardised format and relate to issues including occupancy, external finishes, landscaping, entrance details, wastewater treatment and development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report noted the site context, the planning history, and the relevant policy considerations, with particular reference to the site location within a *'Tourism and Rural Diversification Area'* and the associated requirement for the applicants to demonstrate compliance with one of the eligibility categories set out in Objective RCI 4-3 of the County Development Plan. The report subsequently stated that consideration could be given to the applicants' specific housing circumstances on the basis that they proposed to retire from farming and as they intended to transfer their existing home to another family member (their son) who would assume responsibility for the operation of the family farm. Concerns were also raised as regards the potential availability of alternative (and less visually sensitive) sites elsewhere within the landholding, although it was also considered that the proposal would not have an unacceptably detrimental impact on the visual amenity and scenic quality of the surrounding area. Accordingly, it was recommended that further information should be sought in respect of a number of items, including (but not limited to) the applicants' housing circumstances and the potential availability of alternative sites within the landholding.

Following the receipt of a response to a request for further information (and the subsequent provision of revised public notices), a final report was prepared which recommended a grant of permission subject to conditions.

3.2.2. Other Technical Reports:

Area Engineer: Stated that the proposed development site is accessed from a point located approximately 50m beyond the end of the public road (Local Road No. L-83342-80) and that further information would be required in order to determine if the applicants have a right of way over the intervening lands / accessway. It was also stated that the applicants should be required to submit details of the locations of the trial hole and percolation tests undertaken on site.

Archaeologist: States that the proposed development is an adequate distance from Recorded Monument No. CO143-957 and that no further archaeological input is required.

Engineering: States that following consideration of the applicants' response to a request for further information there is no objection to the proposed development, subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

A total of 2 No. submissions were received from interested third parties and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental visual impact on an area of high scenic quality / amenity value.
- The unsuitability of the application site for the development proposed.
- The potential availability of alternative (and less visually sensitive) sites elsewhere on the landholding.
- Failure to satisfy the eligibility requirements of the relevant rural housing policy.
- Non-compliance with the Cork Rural Design Guide.
- Undesirable precedent for further inappropriate development in the area.

4.0 Planning History

4.1. On Site:

None.

4.2. On Adjacent Sites:

PA Ref. No. 071756. Application by Gerard Flavin for permission for the erection of a slatted house and all associated site works at Tralong, Rosscarbery, Co. Cork. This application was withdrawn.

4.3. On Sites in the Immediate Vicinity:

PA Ref. No. 007410. Was refused on 5th February, 2001 refusing John Joe Barry outline permission for the reconstruction of a ruin for use as a dwelling house at Tralong, Rosscarbery, Co. Cork.

PA Ref. No. 03645. Was refused on 14th April, 2003 refusing Anthony Maxwell permission for the partial demolition, renovations and extension to derelict dwelling/buildings for use as a dwelling and installation of a biocycle unit at Tralong, Rosscarbery, Co. Cork.

PA Ref. No. 09478. Was refused on 17th September, 2009 refusing Mary Daly permission to construct a dwelling house and a detached domestic garage along with all associated site works at Tralong, Rosscarbery, Co. Cork.

PA Ref. No. 1434. Was granted on 22nd April, 2014 permitting Robert Moran permission for the retention and completion of partially constructed dwelling house originally permitted under planning reg. ref. 91/3721 including retention of existing variations from such approved plans, permission for the demolition of a separate and unauthorised dwelling house including an integrated garage and the removal of an unauthorised polytunnel, permission for the restoration of an abandoned ruinous former dwelling house for use as an ancillary outbuilding and the installation of a percolation area to serve the existing septic tank and all associated site development works. All at Tralong, Rosscarbery, Co. Cork.

N.B. There is a considerable planning history attached to the applicants' wider landholding and in this regard I would refer the Board to the summation of same

appended to the initial Planner's Report held on file (as supplemented by additional details on file).

5.0 Policy Context

5.1. National and Regional Policy

The 'Sustainable Rural Housing, Guidelines for Planning Authorities', 2005 promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities. Notably, the proposed development site is located in a 'Stronger Rural Area' as indicatively identified by the Guidelines. Furthermore, in accordance with the provisions of the Guidelines, the Cork County Development Plan, 2014 includes a detailed identification of the various rural area types specific to the county at a local scale and 'Figure 4.1: Rural Housing Policy Area Types' of the Plan details that the site is located within a 'Tourism and Rural Diversification Area'.

5.2. Development Plan

Cork County Development Plan, 2014:-

Chapter 4: Rural, Coastal and Islands:

RCI 1-1: Rural Communities:

Strengthen rural communities and counteract declining trends within the settlement policy framework provided for by the Regional Planning Guidelines and Core Strategy, while ensuring that key assets in rural areas are protected to support quality of life and rural economic vitality.

RCI 2-1: Urban Generated Housing:

Discourage urban-generated housing in rural areas, which should normally take place in the larger urban centres or the towns, villages and other settlements identified in the Settlement Network.

RCI 2-2: Rural Generated Housing:

Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community.

Section 4.3: *Identifying Rural Area Types:*

Section 4.3.7: *Tourism and Rural Diversification Area:*

These parts of rural and coastal County Cork exhibit characteristics such as evidence of considerable pressure for rural housing in particular higher demand for holiday and second home development. These rural areas are more distant from the major urban areas and the associated pressure from urban generated housing. These areas also have higher housing vacancy rates and evidence of a relatively stable population compared to weaker parts of the County. These areas have higher levels of environmental and landscape sensitivity and a weaker economic structure with significant opportunities for tourism and rural diversification.

Section 4.4: *Categories of Rural Generated Housing Need:*

Section 4.4.2: This plan recognises the positive benefits for rural areas to sustain and strengthen the vibrancy of rural communities by allowing qualifying applicants to build a first home for their permanent occupation in a 'local rural area' to which they have strong economic or social links as defined in the following objectives RCI 4-1 to RCI 4-5. The meaning of 'local rural area' is generally defined by reference to the townland, parish or catchment of the local rural school to which the applicant has a strong social and / or economic link.

RCI 4-3: Tourism and Rural Diversification Area:

This rural area has experienced high housing construction rates and above average housing vacancy rates which has led to concerns that a higher demand for holiday and second homes is depriving genuine rural communities the opportunity to meet their own rural generated housing needs. Therefore, in order to make provision for the genuine rural generated housing needs of persons from the local community based on their social and / or economic links to a particular local rural area and to recognise the significant opportunities for tourism and rural diversification that exist in this rural area, it is an objective that applicants must demonstrate that their proposal complies with one of the following categories of housing need:

- 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 full time in farming, forestry, inland waterway, marine related occupations or rural based sustainable tourism, for a period of over three 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) Persons whose predominant occupation is farming / natural resource related, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.
- f) Persons whose permanent employment is essential to the delivery of social and community services and intrinsically linked to a particular rural area for a period of over three consecutive years and who can demonstrate an economic and social need to live in the local rural area where they work, within which it is proposed to build a first home for their permanent occupation.
- g) 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.

Section 4.6: *General Planning Considerations:*

RCI 6-1: *Design and Landscaping of New Dwelling Houses in Rural Areas:*

- a) Encourage new dwelling house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.
- b) Promote sustainable approaches to dwelling house design by encouraging proposals to be energy efficient in their design, layout and siting.
- c) Require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings.

RCI 6-2: Servicing Individual Houses in Rural Areas:

Ensure that proposals for development incorporating septic tanks or proprietary treatment systems comply with the EPA Code of Practice: Wastewater Treatment and Disposal Systems serving Single Houses (p.e. < 10) or any requirements as may be amended by future national legislation, guidance, or Codes of Practice.

RCI 6-4: Occupancy Conditions:

In order to take a positive approach to facilitating the housing needs of the rural community, where permission has been granted for a rural housing proposal, an occupancy condition shall normally be imposed under Section 47 of the Planning & Development Act 2000.

Section 4.9: Coastal Areas:

RCI 9-1: Development in Coastal Areas:

- a) Encourage development generally to be located in accordance with the settlement policies of this plan and in particular to recognise the limited capacity of many coastal areas for accommodating development on a large scale.
- b) Reserve sufficient land in the various settlements to accommodate the particular requirements of coastal industry, ports and harbour development and other coastal infrastructure.

Chapter 13: Green Infrastructure and Environment:

Section 13.5: *Landscape*

Section 13.6: *Landscape Character Assessment of County Cork*

GI 6-1: Landscape:

- 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 land use 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.

GI 6-2: Draft Landscape Strategy:

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

Section 13.7: *Landscape Views and Prospects:*

GI 7-1: General Views and Prospects:

Preserve the character of all important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance

(including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

GI 7-2: Scenic Routes:

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this plan. The scenic routes identified in this plan are shown on the scenic amenity maps in the CDP Map Browser and are listed in Volume 2 Chapter 5 Scenic Routes of this plan.

GI 7-3: Development on Scenic Routes:

- a) Require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such areas, the appropriateness of the design, site layout, and landscaping of the proposed development must be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.
- b) Encourage appropriate landscaping and screen planting of developments along scenic routes which provides guidance in relation to landscaping. See Chapter 12: Heritage Objective HE 46.

West Cork Municipal District Local Area Plan, 2016:

Section 1: *Introduction*

Section 2: *Local Area Strategy*

5.3. Natural Heritage Designations

The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The Kilkeran Lake and Castlefreke Dunes Special Area of Conservation (Site Code: 001061), approximately 5.8km east of the site.
- The Galley Head to Duneen Point Special Protection Area (Site Code: 004190), approximately 7.2km southeast of the site.
- The Myross Wood Special Area of Conservation (Site Code: 001070), approximately 6.2km northwest of the site.
- The Castletownshend Special Area of Conservation (Site Code: 001547), approximately 7.7km southwest of the site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Mr. Jonathan Self:

- The proposed development site is located in Tralong Bay, an unspoilt coastal area of natural beauty worthy of preservation which has been designated as a 'High Value' landscape in the Cork Country Development Plan, 2014. The surrounding area is also popular with walkers and forms part of Scenic Route No. S80. The very limited number of houses around the bay contributes to its unspoilt quality and no new dwelling houses have been granted permission on the eastern side of the bay, although several proposals have been refused over the last 15 No. years i.e. PA Ref. Nos. 03/645 & 09/478.
- The subject site is located in an elevated position and is highly visible from all sides of Tralong Bay, with particular reference to Scenic Route No. S80 which terminates at the pier directly opposite.
- The application site is the only part of the applicants' family landholding which is located in Tralong Bay within view of the sea and Scenic Route No. S80. The remainder of their lands are located in and around the family farm in areas which are less visually sensitive.
- It is evident from the available information that the applicants could not have selected a more inappropriate site within their landholding for the construction of a new dwelling house. Due to its elevated and exposed location, the

proposed development will have a significant detrimental visual impact on Tralong Bay and the views available from Scenic Route No. S80.

- The proposal to erect screen mounding around the proposed dwelling house demonstrates the overall unsuitability of the site for the development proposed and is contrary to the recommendations of *the 'Cork Rural Design Guide: Building a New House'* as published by Cork County Council.
- Contrary to the applicants' assertion that *'this site is the best option for the construction of a dwelling house'*, it should be noted that there are several examples of permission having been granted to other family members elsewhere on the landholding in much less visually sensitive locations (i.e. PA Ref. Nos. 11/435, 10/723 & 04/4885).
- The siting of a new dwelling house at the location proposed contravenes various policy provisions of the Cork County Development Plan, 2014.
- The report of the case planner concluded that there are alternative sites within the landholding which have not been given adequate consideration.
- No visual impact assessment was requested as part of the planning application.
- The requirement to lodge a landscaping bond of €1,500 in order to ensure that the works are carried out in accordance with the submitted plans will offer little protection given the site location in an area of outstanding natural beauty.
- The proposed dwelling house could potentially be extended and / or modified by way of exempted development which serves to demonstrate the poor decision-making in granting permission in such a visually sensitive location.
- Whilst the applicants have sought to rule out applying for planning permission within that part of their landholding close to the Drombeg Stone Circle on the basis of *'the sensitive nature of this site and [the] huge archaeological importance of this monument'*, the Board is advised that the applicant (Mr. Noel Flavin) was previously granted permission under PA Ref. No. 95/614 for a dwelling house at that location subject to a condition which required him to occupy the property as his primary place of residence for a period of 5 No. years. However, following lengthy correspondence with the Planning Authority

wherein the applicant indicated his intention to sell that site with the benefit of planning permission, the aforementioned occupancy condition was ultimately omitted. That grant of permission was subsequently modified under PA Ref. No. 02/4469 and the dwelling house developed before being used as a holiday home for several years prior to its recent sale.

- The applicants do not satisfy the relevant eligibility requirements as regards the construction of a dwelling house in this rural location.
- Each of the qualifying categories of housing need set out in Policy RCI 4-3: *'Tourism and Rural Diversification Area'* of the Development Plan stipulate that the proposed dwelling house must be the 'first home' of the applicant and, therefore, the applicants do not satisfy the eligibility requirements as they already own a dwelling house connected to the family farm.
- In reference to the applicants' desire to retire from farming in order to allow a family member to take over the farm (i.e. Mr. Gerard Flavin), it should be noted that Mr. Gerard Flavin was previously granted permission to construct a dwelling house close to the farm pursuant to PA Ref. No. 04/4885. Furthermore, whilst the applicants have indicated their intention to transfer the family home to another member of the family (i.e. Mr. Niall Flavin), the question of whether or not that individual can establish a local housing need is considered to be irrelevant to the assessment of the subject application.
- Any acceptance of the applicants' proposal to transfer the family home to another party would undermine the provisions of Policy RCI 4-3 and would set a dangerous precedent. In effect, anyone could simply dispose of their dwelling house and seek planning permission for a new house pursuant to Policy RCI 4-3.
- The proposed development involves the construction of a poorly designed bungalow which largely ignores the guidance set out in the Cork Rural Design Guide.
- The prominence and visibility of the subject site, particularly in the context of Scenic Route No. S80, results in the selected location being the most unsuitable within the family landholding for any development.

- The steeply sloping topography / gradient of the application site renders it unsuitable for development. This is further evidenced by the extent of cutting required and the amount of screening proposed on the seaward side of the dwelling.
- The design of the proposed dwelling house does not respect the proportions of traditional rural architecture and inadequate information has been provided to demonstrate how the proposal will integrate with the surrounding landscape.
- There is a clear precedent in the immediate vicinity of the application site for the refusal of the subject proposal by reference to the previous determination of PA Ref. Nos. 03645 & 09478.

6.1.2. Mr. Conor Kinsella:

- The proposed development will have a detrimental impact on the visual amenity of the surrounding area.
- If approved, the proposal would set an undesirable precedent which would erode the protection offered by the County Development Plan thereby leading to further inappropriate development in areas designated as *'high value'* landscapes.
- The proposed development site is located alongside a beautiful and secluded bay in an area which has been designated as a *'high value'* landscape in the County Development Plan whilst the surrounding area also forms part of Scenic Route No. S80 and the Wild Atlantic Way. It further occupies a prominent position on high ground that is clearly visible from around the bay area and aligns with the termination point of Scenic Route No. S80.
- Contrary to the applicants' assertion that the subject site represents the *'best option for the construction of a dwelling house'* when selected from an overall landholding of 70 No. hectares, it is submitted that the application site forms part of a small cluster of fields overlooking Tralong Bay which are isolated from the main landholding. Moreover, it should be noted that the main landholding lies further inland and is much less visually sensitive,

notwithstanding that a small proportion of same bounds Scenic Route No. S81 (Glandore Road).

- With regard to the applicants' reference to the previous refusal of PA Ref. No. 03/5696, the Board is advised that a subsequent planning application (PA Ref. No. 11/435) by the same family member was granted permission elsewhere on the landholding. Furthermore, two other family members were granted permission under PA Ref. Nos. 10723 & 04/4885.
- It is unclear why the applicants have not chosen a site from within the main landholding where there is precedent of planning permission having been successfully secured. Whilst the subject site is the only part of the landholding with spectacular sea views, it is also the most visually sensitive location given its position on elevated lands within a 'high value' landscape opposite the termination of Scenic Route No. S80. Notably, the refusal of PA Ref. Nos. 03/645 & 09/478 serves to reiterate the sensitivity of the area.
- The proposal to 'cut' into this steeply sloping site and to erect artificial mounding in an effort to screen the proposed dwelling house amounts to poor design practice and serves to reinforce the unsuitability of the site for development.
- The report of the case planner has concluded that there are potential alternative sites within the landholding which have not been given adequate consideration.
- The Board is requested to overturn the decision of the Planning Authority and to refuse permission for the proposed development on the basis of poor site selection, visual impact, loss of amenity in a 'high value' landscape, and undesirable precedent.
- Each of the qualifying categories of housing need set out in Policy RCI 4-3: '*Tourism and Rural Diversification Area*' of the Development Plan stipulate that any proposal must be for the '*first home*' of the applicant and in this respect it is unclear how the applicants can be held to satisfy the relevant eligibility requirements.

- The applicants would appear to have confused local housing need by reference to the transfer of the farmholding to one family member and the disposal of their home to another. No evidence has been submitted to demonstrate that the aforementioned transfers have taken place, although these details are irrelevant in any case. The applicants have failed to establish a housing need and the conflating of the housing need of another family member with that of the applicants should be disregarded.
- To assess the applicants' housing need other than in accordance with Policy RCI 4-3 would set an undesirable precedent that could lead to inappropriate development in rural and coastal areas.
- The applicants do not have a housing need as per the requirements of Policy RCI 4-3 of the Development Plan.

6.2. Applicant's Response

- With regard to the issue of housing need, the applicants' existing home essentially forms part of the wider farm operation and is located centrally to same. The transferring of the daily responsibilities of this farm have been underway for several years with the applicants' son, Mr. Gerrard Flavin, gradually taking over the business.

Several of the applicants' children have already built homes on the family lands, however, their son, Mr. Niall Flavin, has never received permission for a house. Therefore, it was considered that if the family farm were to be transferred to Mr. Flavin then the applicants' housing need could be accepted. The Planner's Report on file states that it is *'fully accepted that the case made for a 'dwelling house in retirement' is genuine'*.

- The applicants presently reside in the farmhouse associated with the family farm and have never built a new home on the landholding. This farmhouse has always been associated with the farming of the lands and by transferring it to their son the applicants are anticipating that this tradition will continue.
- It is considered that PA Ref. No. 16/5927 is a relevant example of how the rural housing policy objectives of the County Development Plan, with specific

reference to the requirement for an applicant to be building a 'first home' for their permanent occupation, are presently being interpreted and implemented by the Planning Authority. In its determination of PA Ref. No. 16/5927 (which related to the development of a dwelling house in a *'Rural Area under Strong Urban Influence'* pursuant to Objective RCI 4-2 of the Development Plan), the Planning Authority accepted that whilst the applicant owned an investment property, they satisfied the relevant eligibility requirements as they had never resided in that dwelling house and thus it was never their home. Accordingly, it is submitted that the foregoing case provides a precedent for the assessment of the subject proposal given that the applicants inherited their existing home (and farm) and, if permission is granted, they would be 'building' their first home.

- The proposed dwelling house will be the 'first home' to have been built by the applicants. Preference is also given to farmers and their immediate families in terms of rural housing and the County Development Plan recognises the importance of the farming community and the right of its people to reside in rural areas. Therefore, it is considered entirely logical that the applicants' son should live within the main farm complex on a permanent basis.
- The Planning Authority has determined that the applicants are in genuine need of a dwelling house and that they comply with the rural housing policy set out in the Development Plan.
- With regard to the appellants' reference to PA Ref. No. 95/614, that application involved the redevelopment of a ruinous dwelling house in the hope that a family member would run the associated farmholding in the years to come. Unfortunately, the purchase of these lands placed the applicants under severe financial pressure with the result that both the house and the remaining lands had to be sold. All other planning applications on the landholding have been for the applicants' sons and daughters and have no bearing on the subject proposal.
- Development within that part of the applicants' landholding which adjoins the Drombeg stone circle has been ruled out as it would contravene Objective HE

3-1: 'Protection of Archaeological Sites' and a number of other scenic and landscape polices (with particular reference to Scenic Route No. S80).

- The main farmholding has an extensive planning history with only a few suitable sites having eventually been identified for family members. Therefore, this part of the landholding is not a suitable location for the proposed development and has been justifiably ruled out. These lands are also in the process of being transferred to the applicants' son.
- The lands at Cregg have been sold and thus are no longer considered relevant. Therefore, by way of a process of elimination, the only remaining option is the applicants' lands at Tralong, which includes the subject site.
- Any comparison with PA Ref. No. 09/478 is rejected for the reasons set out in the Planner's Report:

'any direct comparison to that refused application is unjustified since not only did it relate to a very large two storey house . . . of vast proportions on a sloping exposed green field overlooking Tralong Bay, the applicant was not even from the area without any strong ties but rather "currently resides and owns a property at Clonakilty". A ground of refusal was recorded on that application (Ref. 09/478) and along the same minor road due to increased traffic generation but given that the applicants of this current application . . . have an agricultural shed on the subject site with traffic movements already, that ground of refusal has not been pursued in this instance by the Area Engineer'.

- The reasons for the refusal of PA Ref. No. 03645 which related to traffic hazard and public health are not relevant to the proposed development. Furthermore, whilst PA Ref. No. 03/645 was also refused permission on the basis of its location in an elevated and prominent position within an area of visual / scenic importance, it is submitted that the subject site is not comparable to same.
- The proposed development site is occupied by an agricultural shed and is screened by substantial hedgerows and an existing embankment. The proposed dwelling will therefore be unobtrusive and will have a minimal visual impact on the surrounding landscape.

- It is submitted that PA Ref. No. 14/34 establishes a positive planning precedent and is more comparable to the subject proposal given the presence of an existing agricultural shed on site.
- The overall design and siting of the proposed dwelling house has had regard to the Cork County Council Rural Design Guide which facilitates and supports a variety of architectural styles provided they are sensitive to the rural landscape.
- The embankment along the western site boundary is already in place and as such cannot be brought into question. This embankment consists of mature indigenous planting which is proposed to be supplemented as part of the subject proposal.
- The proposed development benefits from a well-considered composition and site layout in addition to screening provided by established hedgerows and an embankment. The proposed dwelling will be positioned below the public road whilst its floor level will be slightly below that of the neighbouring shed. The dwelling has also been orientated to maximize solar gain into the main living accommodation and the site topography can easily accommodate the proposed construction. The accompanying site section also shows the extent to which the land continues to rise beyond the eastern site boundary thereby forming a substantial backdrop to the proposal.
- The predominant built form in the surrounding area is a mixture of single and two storey dwellings as well as old farmhouses and cottages which have been extended. The proposed dwelling is a modest storey-and-a-half construction and of a contemporary rural design. The overall ridge height of the proposed dwelling closely matches that of the existing shed and the overall scale and massing of the proposal is considered appropriate in this rural landscape. The proposed design is well proportioned with vertical emphasised windows and a simple form as per the Design Guide.
- With regard to the suggestion in the grounds of appeal that the proposed development will set a 'dangerous precedent' for future development in the area, it is submitted that all planning applications are assessed on their

individual merits and that the circumstances of the subject proposal would be virtually impossible to replicate elsewhere in the county.

- The applicants' housing need is unique to them and their requirements as regards the succession of the family farm. The subject site was selected on the basis of the applicants' genuine need to move away from the daily operation of the farm whilst remaining in the local community during retirement.

6.3. Planning Authority's Response

- The issues of housing need, visual impact, design, scale, siting, road safety and all other material planning considerations were assessed in full as set out in the planning reports contained on file.
- Having considered the grounds of appeal, the recommendation to grant permission, subject to conditions, remains unaltered.
- Any comparison to the determination of PA Ref. No. 09/478 is considered to be erroneous.
- With regard to the issue of housing need, the applicant was required by way of a request for further information to submit a completed copy of 'Supplementary Planning Application Form - SF1'.
- It is the responsibility of the applicant to explain why the grant of permission issued in respect of PA Ref. No. 95/614 was not included in response to Question Nos. 5.2 and 5.3 of the Supplementary Planning Application Form.
- Consideration of the grant of permission issued in respect of PA Ref. No. 95/614 (which approved the demolition of a dwelling (ruin) and the subsequent construction of a new dwelling house on 25th October, 1995) would not have led to any different recommendation on the subject application. Further planning applications have since been granted permission on that site under PA Ref. Nos. 02/4469 & 15/168.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- Rural housing policy / the principle of the proposed development
- Overall design and layout / visual impact
- Traffic implications
- Wastewater treatment and disposal
- Appropriate assessment

These are assessed as follows:

7.2. **Rural Housing Policy / the Principle of the Proposed Development:**

7.2.1. In terms of assessing the principle of the proposed development having regard to the applicable rural housing policy, it is of relevance in the first instance to note that whilst the proposed development site is located in a 'Stronger Rural Area' as indicatively identified by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005', the detailed identification of the various rural area types at a county level as outlined in 'Figure 4.1: Rural Housing Policy Area Types' of the Cork County Development Plan, 2014 indicates that the site in question is located within a 'Tourism and Rural Diversification Area'. In this respect I would refer the Board to Section 4.3.7 of the Plan which states that these 'Tourism and Rural Diversification Areas' comprise parts of rural and coastal Co. Cork which exhibit characteristics such as evidence of considerable pressure for rural housing and, in particular, a higher demand for holiday and second home development. These areas are more distant from the major urban centres and the associated pressure from urban-generated housing, however, they also have higher housing vacancy rates and evidence of a relatively stable population compared to weaker parts of the County. In addition, it is stated that these areas have higher levels of environmental and

landscape sensitivity and a weaker economic structure with significant opportunities for tourism and rural diversification. Accordingly, within these *'Tourism and Rural Diversification Areas'* the Planning Authority has adopted a somewhat restricted approach as regards the eligibility of prospective applicants for rural housing and in this respect Objective RCI 4-3 of the County Development Plan states that in order to make provision for the genuine rural-generated housing needs of persons from the local community based on their social and / or economic links to a particular local rural area, and to recognise the significant opportunities for tourism and rural diversification that exist in these rural areas, applicants must demonstrate that their proposal complies with one of the following categories of housing need:

- 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 full time in farming, forestry, inland waterway, marine related occupations or rural based sustainable tourism, for a period of over three 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) Persons whose predominant occupation is farming / natural resource related, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.
- f) Persons whose permanent employment is essential to the delivery of social and community services and intrinsically linked to a particular rural area for a period of over three consecutive years and who can demonstrate an economic and social need to live in the local rural area where they work,

within which it is proposed to build a first home for their permanent occupation.

- g) 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.

7.2.2. From a review of the available information, it is apparent that a key issue in the assessment of the subject appeal is whether or not the applicants satisfy the eligibility criteria set out in the County Development Plan and the *'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'* as regards the development of a rural dwelling house at the location proposed. In this respect I would advise the Board at the outset that the applicants are long established residents of the area who have been actively engaged in the farming of a substantial family landholding whereupon they have resided for the majority of their lives. However, whilst the applicants retain ownership of their current place of residence, it is their desire to retire from full-time farming and thus the case has been put forward for the construction of a new dwelling house for their own occupation at the location proposed. In support of the foregoing, it has been submitted that the applicants' existing home essentially forms part of the wider farm operation and that due to its central location within the farmholding it would be preferable for the applicants to relocate away from the focus of the farming activities, particularly as the daily responsibilities associated with the operation of the farm are in the process of being transferred to their son, Mr. Gerrard Flavin. Furthermore, the applicants' existing family home is to be transferred to another son (Mr. Niall Flavin), who has never been granted planning permission for a dwelling house on the landholding, in order to address his housing need. Accordingly, it has been suggested that the aforementioned arrangements suitably provide for the succession of the existing farming operation and the need to accommodate the housing requirements of another family member (who would seemingly satisfy the relevant eligibility criteria as regards qualifying for a rural dwelling house in this area) and that these specific circumstances give rise to the applicants genuine housing need. It has also been

submitted that further credence is lent to the applicants' case on the basis that they have never before 'built' a home and thus satisfy this criterion of Objective RCI 4-3 of the County Development Plan.

7.2.3. Having considered the available information, whilst I would concede that the applicants are long established residents of the area and thus form an intrinsic part of the surrounding rural community, it is clear that they do not satisfy a fundamental aspect of the qualifying criteria set out in Objective RCI 4-3 of the County Development Plan in that they are not building '*a first home for their permanent occupation*'. Indeed, the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' provide further clarity in this respect in that they aim to facilitate persons who are an intrinsic part of the rural community and are 'building their first homes'. Therefore, although the applicants' specific circumstances are perhaps somewhat unique, in my opinion, it must be held that their need for a dwelling house in this instance has arisen as a direct result of their decision to dispose of their existing residence to another family member. Whilst I would acknowledge that the family member (Mr. Niall Flavin) who will benefit from the applicants' transfer of their existing dwelling house may otherwise satisfy the eligibility criteria set out in Objective RCI 4-3 of the Plan, this is not the matter under consideration as part of the subject application. In my opinion, the key issue requiring analysis is whether or not the applicants' own decision to generate a 'housing need' can be held to satisfy the eligibility requirements of both the Development Plan and the '*Sustainable Rural Housing, Guidelines for Planning Authorities*'. In this respect it should be noted that there is no provision within either of the aforementioned planning policy documents which would warrant a deviation from the requirement that any new rural housing in this area should be built as a 'first home'. Furthermore, I do not accept the suggestion that the applicants should be permitted to develop a new dwelling house simply on the basis that they have not previously 'built' a home as any such interpretation would serve to fundamentally undermine the wider provisions of the rural housing strategy set out in the Development Plan. Indeed, I would have serious reservations that the proposed development, if granted, could set an undesirable precedent in this regard.

7.2.4. Therefore, on the basis of the foregoing, whilst I would acknowledge the merits of the case provided by the applicants, on balance, I am inclined to conclude that they do

not satisfy the eligibility criteria set out in the Development Plan or the *'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'* as regards the construction of a rural dwelling house at the location proposed, although the Board is open to review same.

7.3. **Overall Design and Layout / Visual Impact:**

- 7.3.1. In terms of assessing the visual impact of the proposed development it is of relevance in the first instance to note that the wider landscape type within which the subject site is located has been classified as *'Indented Estuarine Coast'* as per the landscape character mapping set out in the County Development Plan, 2014. More notably, the site is located within a *'high value'* landscape and will be readily visible from various vantage points on the opposite side of Tralong Bay and also from the end of Scenic Route No. S80 (*Local roads from Kilfinnan to Cregg to Drombeg – Views of Tralong Bay, Glandore Harbour & sloping hillsides*) with the views from same having been listed for preservation in the Development Plan pursuant to Objective No. GI 7-2: *'Scenic Routes'* (N.B. Table 5.1: *'Scenic Routes – Views and Prospects & Scenic Route Profiles'* of Volume 2 of the Plan confirms that this route is in an area of *'Very High-Medium'* overall landscape value). In a local context, the application site occupies a relatively elevated and exposed position on a small coastal promontory / headland along the eastern side of Tralong Bay which retains its somewhat remote and rugged undeveloped coastal character, notwithstanding the recent development of an agricultural shed on site and the construction of a large dwelling house further southeast. Accordingly, it is necessary to consider the overall visual impact of the proposal on the wider character of the surrounding area and its compatibility with the prevailing pattern of development.
- 7.3.2. Having considered the submitted information, in my opinion, it is clear that the subject site is located within a landscape sensitive to change which is of wider amenity value. Whilst I would accept that efforts have been employed in the design of the proposed dwelling house to reduce its visual impact, and that there may be no other alternative sites available elsewhere within the applicants' landholding, I am inclined to suggest that the subject site itself is not ideally suited to the development of housing. In my opinion, considering the site's prominent location, a greater weighting should be applied to the importance of preserving the amenity value of this area and its overall setting and contribution to the wider landscape of Tralong Bay.

Furthermore, notwithstanding the specifics of the submitted design and the proposal to utilise measures such as earthen embankments and landscaping to mitigate the visual impact of the proposed development, I am inclined to conclude that the overall construction will present as an unacceptably obtrusive feature within this generally unspoilt landscape whilst the likely evidence of continued habitation such as internal / external lighting etc. will simply serve to exacerbate the visual impact of the proposed development. Accordingly, it is my opinion that the development of the proposed dwelling house by reason of its overall visual impact and appearance would contribute to a further erosion of this sensitive coastal location and, in particular, the wider setting and amenity value of the Tralong Bay area. Indeed, I would have concerns that any decision to grant permission for the proposed development would act as a precedent whereby further proposals for housing development could potentially be permitted along this unspoilt section of roadway / coastline which would simply serve to continue the gradual erosion of the amenity value of this particularly visually sensitive headland to the detriment of the wider area.

7.4. **Traffic Implications:**

- 7.4.1. With regard to the capacity of the surrounding road network to accommodate the increase in traffic consequent on the proposed development, the local road from which the subject site is accessed is a narrow, substandard and poorly aligned stretch of roadway which serves a remote coastal area with limited opportunities for two vehicles to pass side-by side and, therefore, I would have considerable reservations as regards the capacity of this roadway to accommodate any further unwarranted development. Accordingly, it is my opinion that the road network serving the subject site is substandard in terms of width and alignment and that the proposed development would contribute to the generation of a traffic hazard at this location and the obstruction of existing road users.

7.5. **Wastewater Treatment and Disposal:**

- 7.5.1. It is proposed to install a septic tank system with a percolation area and, therefore, it is necessary to review the available information in order to ascertain if the subject site is suitable for the proposed disposal of treated effluent to ground. In this respect I would refer the Board to the submitted Site Characterisation Form which states that

the trial hole encountered 600mm of gravelly SILT / CLAY topsoil followed by 800mm of gravelly SILT / CLAY with some boulders which in turn overlay 600mm of shale SILT and 100mm of loose shale rock to the depth of the excavation at 2.2m below ground level. The water table was not encountered and no evidence of mottling or preferential flowpaths were recorded. With regard to the percolation characteristics of the soil a 'T'-value of 12.56 minutes / 25mm and a 'P'-value of 12.28 minutes / 25mm were recorded which would constitute a pass in accordance with EPA guidance.

7.5.2. Accordingly, on the basis of the foregoing, and the additional supporting documentation supplied by the applicant, it would appear that the subject site is suitable for the installation of the septic tank system proposed, subject to conditions.

7.6. **Appropriate Assessment:**

7.6.1. From a review of the available mapping, including the Cork County Development Plan, 2014 and the data maps available from the website of the National Parks and Wildlife Service, it is apparent that although the proposed development site is not located within any Natura 2000 designation, it is situated approximately 5.8km west of the Kilkeran Lake and Castlefreke Dunes Special Area of Conservation (Site Code: 001061), 7.2km northwest of the Galley Head to Duneen Point Special Protection Area (Site Code: 004190), 6.2km southeast of the Myross Wood Special Area of Conservation (Site Code: 001070), and 7.7km northeast of the Castletownshend Special Area of Conservation (Site Code: 001547). In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Objective No. HE 2-1: '*Sites Designated for Nature Conservation*' of Chapter 13 of the Cork County Development Plan, 2014, to protect all natural heritage sites, both designated or proposed for designation, in accordance with National and European legislation. In effect, it is apparent from the foregoing provisions that any development likely to have a serious adverse effect on a Natura 2000 site will not normally be permitted and that any development proposal in the vicinity of, or affecting in any way, the designated site should be accompanied by such sufficient information as to show how the proposal will impact on the designated site. Therefore, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora

or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.

- 7.6.2. Having reviewed the available information, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the development proposed, the site location outside of any Natura 2000 designation, the limited ecological value of the lands in question, and the separation distances involved between the site and the closest Special Area of Conservation and Special Protection Area, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of the aforementioned Natura 2000 sites. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of the foregoing Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.
- 7.6.3. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, 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 and, in particular, specific Site Codes: 001061, 004190, 001070 & 001547, in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. The site of the proposed development is located on an exposed and prominent headland of high scenic quality, which is highly visible from Tralong Bay and the surrounding area, and which makes a significant contribution to the setting of Tralong Bay. It is considered that the erection of a house in this visually vulnerable coastal location, which is open to views from the bay and

the surrounding area, in an undeveloped, prominent headland position that is unsuitable for the development of a house, would seriously injure the visual amenities of the area, would represent an undesirable precedent for similar unsuitable development, and would materially contravene Objective GI 6-1 as set out in the Cork County Development Plan 2014 which seeks to protect the visual and scenic amenities of County Cork's built and natural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the provisions of the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government (2005), to the location of the site within a 'Tourism and Rural Diversification Area' as set out in the Cork County Development Plan 2014, to the aims and objectives of the planning authority's rural settlement strategy in relation to housing in such areas, as set out in the Development Plan, and on the basis of the information submitted with the planning application and with the appeal, it is considered that the applicants do not come within the scope of the housing need criteria set out in the Guidelines or the Development Plan for a house at this rural 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 provisions of the said Ministerial Guidelines, would contravene the objectives of the Development Plan, and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the substandard width, alignment and surface treatment of the access road that would serve the proposed house, it is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users. The proposed development would,

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

Robert Speer
Planning Inspector

16th January, 2018