



An
Bord
Pleanála

Inspector's Report 300096-17.

Development	Demolition of existing disused dwellinghouse and erection of dwellinghouse, wastewater treatment unit, sand polishing filter and other ancillary site works.
Location	Ardeen, Clondrohid, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	17/05454.
Applicant(s)	Roy Thomas.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Finbar O'Connell and others.
Observer(s)	None.
Date of Site Inspection	13 th February 2018
Inspector	Mairead Kenny.

1.0 Site Location and Description

- 1.1. The site, which is a stated area of 0.22 hectares adjoins a local road in a rural area, which can be described as 'middle ground' in terms of its elevation. On site is a derelict dwellinghouse, which has previously undergone a degree of refurbishment and repair and which was subsequently allowed through vacancy and neglect to fall into a dilapidated condition. That dwellinghouse is located at the eastern side of the local road and is a stated area of 120 m². To the south of the site is a farmhouse and associated farm complex. A vehicular entrance connected with that property is located directly opposite the existing dwellinghouse.
- 1.2. At the northern end of the site are evergreen trees. Another noteworthy boundary treatment is the stone wall / ditch at the western end of the site adjacent to the county road. There is evidence at the rear (east) of the site of rushes.
- 1.3. The adjacent road is narrow and suitable only for one car to pass. At the time of my inspection, which took place in total over a period of about 45 minutes not a single car or other vehicle passed along this road. The area is noteworthy for its rural character and is generally lacking in evidence of development pressure in the form of new houses.
- 1.4. Photographs of the site and surrounding area which were taken at the time of inspection are attached.

2.0 Proposed Development

- 2.1. The subject development comprises:
 - demolition of a building of stated area of 120 m²
 - construction of a two-storey dwelling house of stated area of 129 m²
 - installation of a new wastewater management system
 - water to be supplied by way of private well.
- 2.1.1. In response to the request for further information signed copies of the site assessment and photographic evidence of the trial hole were presented. The applicant also presented evidence regarding his connection with the area and intentions for the future house.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to grant permission for the proposed development subject to conditions including in relation to:

- to be in accordance with plans and particulars received by the planning authority on 9th June 2017 and 12th of September 2017
- matters relating to demolition
- landscaping details which shall comprise predominantly native species
- external finishes
- site entrance drainage details
- provision of adequate supply of potable water
- foul drainage to be by means of proprietary wastewater treatment system which shall comply with the code of practice and shall be installed and maintained in accordance with manufacturer's instructions
- wastewater treatment plant to be operated and maintained to the satisfaction of the planning authority and before any development commences or at the discretion of the planning authority written evidence of maintenance contract to ensure continuous operation of treatment plant shall be submitted and agreed with the planning authority.

3.1.2. The decision to grant permission was preceded by a request for further information in relation to compliance with the objective RCI 4 – 5(c) of the development plan, willingness to enter a formal agreement restricting occupancy of dwellinghouse by the applicant for 7 years and completion of site assessment form.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report dated 1st of August 2017 notes as follows:

- the policies to encourage replacement houses except where the applicant complies with rural housing policy which is not clear
- sightlines are acceptable – proposals to remove evergreen trees and replace with native planting
- regarding surface water it does appear that the field to the north of the site does hold surface water at times
- the water table 1.2 m below
- acceptable means of disposing of surface water and it would not be reasonable to reject the application for this reason
- no public water supply in the area – adequate separation between the proposed well and on site polishing filter – most likely that septic tank for the adjoining farmhouse is south or west of the farmhouse (and the farmhouse is 95 m away)
- there was no water visible in the 1m deep well
- site is covered in vegetation it is difficult to see the original levels for the invert of the t-test which was taken below any imported material which may be there and is therefore representative of the original site
- The location of wells north of the site is identified and it is noted that all of our located in excess of 60m as required under annex B, table B.3 of the EPA code of practice.

3.2.2. The Planner's final report indicates that a residency condition is not required taking into account the planning history of the site, the length of time of ownership and related matters. Permission is recommended subject to standard conditions which include that the house be demolished and demolition waste be removed from the site prior to commencement of development of the new replacement house, matters relating to landscaping and so on.

3.2.3. Other Technical Reports

The Engineering report (further information) - applicant's response to the further information request is deemed acceptable and permission is recommended subject

to conditions. These include relatively standard conditions regarding the proprietary wastewater treatment system and its operation and maintenance.

3.3. Prescribed Bodies

No submissions.

3.4. Third Party Observation

Objection to the development on the basis of concerns relating to impact on existing wells in the area, proposes to dispose of surface water, condition of the ground in terms of the level of the water table and importation of material to the site.

4.0 Planning History

Under Reg. Ref. 05/5206 and O/6832 applications for development relating to the stone cottage by Patrick Thomas were lodged but withdrawn.

The Council's planners report also refers to the previous enforcement action in 2000 related to construction at the time of the two-storey extension to the rear of the old stone cottage.

5.0 Policy Context

5.1. Development Plan

The site is within the transitional rural area in terms of the rural housing policy. In these areas there are lower concentrations of population and a stable population based. The policy is to adopt a positive approach to facilitating rural generated housing, which is defined as including people who have spent a substantial period of their lives (i.e. over 7 years) living in the local rural area in which they proposed to build a home for their permanent occupation.

Objective RCI 8-1 is relevant - this relates to refurbishment of a derelict dwellinghouse and requires the original walls must be substantially intact, the structure must previously have been used as a dwellinghouse and that dwelling must be physically capable of undergoing renovation or conversion without demolition.

The development plan also facilitates replacement of existing habitable dwellings on a case-by-case basis.

5.2. **Natural Heritage Designations**

Mullaghanish to Musheramore Mountains SPA is located to the north, approximately 1 km away.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main points of the third party appeal may be summarised as follows:

- a firm of consulting engineers represent the appellant and raises issues under the headings of disposal of wastewater, surface water disposal and residency conditions
- we surveyed the site levels and located the well (1.3m deep with water level on the day of 0.6m below ground)
- on this basis the water table is incorrectly presented in the Site Suitability Assessment, which would have a significant implications for infiltration
- this water table is the water source for domestic and agricultural wells in the vicinity and is a major concern for the appellants
- comments on details of the proposed WWTP and its design
- states that existing well is less than 20m from the proposed infiltration area
- states that vegetative indicators on site were not correctly recorded
- groundwater flow is at best level and there would be rapid discharge of effluent and bacteria into the ground water
- due to the recorded water table 0.6 m below existing ground levels disposal of surface water by way of a soakway is not a practical solution and there will be flooding for much of the winter season

- the appellants are concerned in relation to the residency rules as set out in appendix D of this document
- appendix D encloses personal submissions from the appellant which refers to the deterioration of water quality which is supplied from 4 wells - it is stated that there has been no change in agricultural practices and the only change has been related to the importation of rubble and landfill onto the site
- the lands bordering the site are subject to flooding in winter and in wet summers the proposed soakways will not work in times of high water table
- we are resident in the area for the past 40 years and a family lived in the house until 1999 and no one has lived there since it is of concern that the requirement that for 7 year residency has been overlooked
- an enclosed drawing shows the location of the well and photographs are described as showing extensive rushes adjacent the site and on the site working.

6.2. Applicant Response

The response on behalf of the applicant to the appeal is structured under the headings of wastewater treatment and disposal, surface water disposal and residency.

The existing well on site is little more than a hole in the ground which is not intended for further use. All of the existing wells are over 75 m from the proposed polishing filter. The groundwater flow direction was in fact determined under the SSA and is to the east. The water level in the well is indeed 0.6 m below ground level - this is one of the lowest parts of the site (circa 8.2 m) below ground level at the location of the proposed filter is about 9.7 m with water recorded in the SSA is 2.1 m giving 7.6 m water level here, which is consistent with the water level in the well.

Other comments refer in relation to surface water and residency. A letter is also enclosed from Tim Clifford Munster Environmental who undertook the site assessment. Enclosed also is the site plan showing the various levels referred.

6.3. **Planning Authority Response**

No comments on substance of appeal.

7.0 **Assessment**

7.1.1. I consider that the substantive issues in this case may be considered under the headings of principle, wastewater treatment and surface water disposal.

7.2. **Principal**

7.2.1. In terms of the consideration of the principle of the development the relevant matter is the planning policy relating to rural generated housing (RCI 4-5) and to replacement dwellings.

7.2.2. I consider that there is evidence that the planning authority considered that the merits of this particular case do not fall simply into one policy provision of the other. I disagree with the third party comment that the requirement that an applicant demonstrate residency in the area for 7 years was overlooked. In my opinion the planning authority fully considered this matter, including by way of the request for further information and that the decision comprises a reasoned conclusion.

7.2.3. In terms of compliance with the requirements to be resident in the area for 7 years I refer to the information presented by the applicant in the further information request. I accept the information, which is as follows. The applicant resided in the existing house between 1997 and 2004 initially as a tenant and following the purchase of the property by his brother in 2000 as a family member. On the basis of the evidence and having regard to the associated documentary material presented there is some evidence that the house will provide for the needs of a local person – however, it is not definitive. The applicant states that he does not own and has never owned residential property or received planning permission for a dwellinghouse in a rural area. The applicant is quite open in terms of his limited connection with the area. I consider that the requirements of the development plan (relating to 7 year residency in the past) are reasonably complied with in this instance.

7.2.4. It is practice and is in my opinion appropriate that any such permission (based on compliance with RCI 4-5) will be subject to occupancy condition under the provisions

of the development plan policy. The applicant has indicated some reservations on that matter of a financial basis. I note also that the applicant's place of employment is in the city and is not related to this rural area but that is not a matter which would preclude a grant of permission under the policy provisions. The applicant has indicated that he will accept the condition with reluctance if necessary.

7.2.5. In arguing against the attachment of such condition the applicant refers to the existing house on the site. I agree that considerable weight should be given to the existing house on the site, which has been in the applicant's family ownership since 2000. Notwithstanding its derelict condition, it will generally comply with the requirements set down in the development plan for a replacement dwellinghouse insofar as the walls are intact. I consider that it is reasonable to take into account and give some weight to the fact that there were attempts in the past to refurbish the dwellinghouse by the applicant's brother. I also agree that there is no particular planning benefit arising if this house is refurbished rather than replaced. The existing house is badly sited in terms of providing for the residential amenities of future occupants and is not of particular architectural merit. Given the state of repair of the house refurbishment would effectively constitute construction of new house. This is not a designated setting landscape and the proposed replacement house is of modest scale and design.

7.2.6. In general I would agree with the applicant's submissions that the area is not under development pressure and in particular I consider that the decision of the planning authority is reasonable when considered in terms of the policy for replacement dwellinghouses. In that context I would support the approach of the planning authority to grant permission for the development which is not restricted to a seven-year occupancy condition. A decision on that basis would be supported by the development plan policy for replacement houses, which allows for consideration on a case by case basis.

7.3. **Wastewater treatment**

7.3.1. The appellant has outlined a number of concerns relating to wastewater treatment proposals for the site and states that water quality in the 4 wells in the area has deteriorated and in the absence of any change of agricultural practice the deposition of material on the site is considered a likely source. The first party refers to the

recent date of change in water quality and the lack of work or deposition of material at the site in that timespan.

- 7.3.2. There is a small level of rubble at the northern end of the site. This is loose material including blocks and appears to be in situ for some time. Based on what I saw on the site and find it difficult to conclude that any changes in groundwater quality in this area could be attributed to any changes on the site. I agree with the submission of the applicant's consultant engineer which states that existing site levels generally represent the original levels. I note that the applicant's submission is that the excavation of trial holes uncovered nothing other than original ground with the exception of some rubble and building material. I consider it is appropriate to consider the merits of this case based on site suitability assessment and the proposals presented.
- 7.3.3. In terms of ground conditions on site I note the completion of the site suitability assessment, which is fully documented on the file. The site is not within a highly vulnerable area in terms of groundwater protection and the Groundwater Protection Response of R2¹ is indicative of good regional characteristics subject to suitable on site conditions. The protection of private wells is governed by the 60m separation provision in the EPA CoP, which distance is exceeded in the proposed development. The groundwater flow in the direction of the eastern boundary of the site is away from these wells in addition. The ground conditions as indicated by the tests undertaken are not indicative of high water table or poor percolation notwithstanding some vegetative indicators on site, such as rushes. The proposed wastewater treatment plant together with the sand polishing filter will provide a high standard of treatment.
- 7.3.4. I consider that the most substantive matter raised in the appeal relates to the stated level of water in the shallow well. This well is at a lower ground level than the location of the proposed wastewater treatment system. It is not clear whether the well water witnessed by the appellant's engineer was from rain or was groundwater. The appellant has not in my opinion refuted the conclusion of the site suitability assessor who noted a water table level of 2.1m below ground level at the location of the proposed wastewater treatment system. The applicant's explanation of the relative water levels recorded is in my opinion reasonable and I accept the overall case made by the first party and consider that the development would not involve

siting of a wastewater treatment system in an area of high water table. I consider that the applicant has responded adequately to the other points made in the appeal including in relation to CE certification and the replacement of the existing well on site.

- 7.3.5. I conclude that the development is acceptable in terms of proposals for wastewater treatment.

7.4. Surface water

- 7.4.1. Having regard to the ground conditions recorded on site, the water table recorded in the SSA report and the proposal to install soakpits I consider that there is no reason for concern in relation to the disposal of surface water.

7.5. Appropriate Assessment

The closest Natura site is the Mullaghanish to Musheramore Mountains SPA Site Code 004162. The Special Conservation Interest is Hen Harrier. No screening report has been submitted. Having regard to the brownfield nature of this site and the grassland habitat and the small scale of the development proposed I consider it reasonable to conclude that on the basis of information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated Natura 2000 and that a Stage 2 Appropriate Assessment is not therefore required.

8.0 Recommendation

- 8.1. I recommend that the Board grant permission for the reasons and considerations and subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the provisions of the Cork County Development Plan 2014-2020, to the particular circumstances in this case including the applicant's family connections with the area, the nature and scale of the proposed replacement dwelling house and

the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would be in accordance with the adopted rural housing policy for the area, would not give rise to adverse water quality impacts or flooding and would not constitute a traffic hazard or seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as revised by the plans and particulars received on 12th September 2017 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The external walls shall be finished in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

3. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

4. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

5. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

6. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

7. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between the hours of 0800 and

1400 on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received by the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Mairead Kenny
Senior Planning Inspector
14th February 2018