



An
Bord
Pleanála

Inspector's Report 300449-18.

Development	Dwellinghouse and garage, site entrance and access road, new septic tank and percolation area and all associated site development works.
Location	Coolies, Muckross, Killarney, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	17/853.
Applicant	Cathal Moynihan and Marie Coleman.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant	Lakes and Rivers of Kerry c/o Michael Horgan.
Observers	None.
Date of Site Inspection	13 th April 2018.
Inspector	Mairead Kenny.

1.0 Site Location and Description

- 1.1. The site is located in a rural area close to Killarney town. It is accessed by way of a minor lane / county road which is a cul de sac. At the termination of the lane is a modern house and an older house which appears to be associated with a farm holding.
- 1.2. The stated site area is 0.356 hectares. It comprises a flat piece of ground which is presently in agricultural use. There is a separate marked plot to the east which is defined by a post and wire fence. There are two additional and recently constructed dwellinghouses which are to the west of the site and take access directly from the county road.
- 1.3. Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached.

2.0 Proposed Development

- 2.1. The total floor area of the proposed house is 241 m². A separate garage and car port are also part of the proposed development.
- 2.2. The site is served by a public mains water supply. A conventional septic tank is to be installed.
- 2.3. The front boundary trees and bank are to be retained and further tree planting is proposed.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions relating to:

- External finishes and design as specified
- Occupancy of house
- Wastewater treatment.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The site is in a 'Stronger Rural Area' and a Secondary Special Amenity Area. Further information required in relation to the location of the family home and whether residency at that location was prior to 2003.

The final report states that the applicant has shown intrinsic links to the area in which he was reared. The dwellinghouse will not be visually obtrusive and will integrate well into the immediate area. Permission recommended.

3.3. Other Technical Reports

Environment Section – 100m from river and 1km from nearest groundwater source - an excess of the amount of suitable, permeable subsoil between point of infiltration and aquifer is to be provided – complies with the groundwater protection response R2² - no objection.

3.4. Prescribed Bodies

Irish Water - no objections.

3.5. Third Party Observations

Two submissions received.

1. Issues raised are reiterated in appeal. Refers also to level of development in area.
2. An Taisce (prescribed body) – site is close to Finoulagh River and system which is part of SAC. Two new houses nearby. Further development needs to be restricted to local people with genuine need to live in area. For sale notice on site.

4.0 Planning History

4.1. The site

Pre-application consultations were held - reference PP5276. The proposal was deemed to be acceptable in principle. Applicant from the immediate area. Recent decisions of ABP discussed.

02/91659 – on site - permission granted for single storey house.

02/1156 – on site – proposed dormer house – refused by reason of height and design.

99/1352 – outline permission granted for house at this site and at adjacent site to east. Single storey house permitted.

4.2. Lands in vicinity

The Board has recently refused permission for three separate applications for dwellinghouses at sites to the south.

PL08.300169 refers to a decision to refuse permission for construction of a dwellinghouse and related works. The refusal of permission by the Board referenced the location of the site in a Stronger Rural Area (under KCDP) and having regard to the nature and location of employment by the applicants a rural generated housing need at this location has not been identified. Contribute to encroachment of random rural development in the area. Applicant obtaining site as a 'favoured niece' who assists on the farm, where she currently resides and assists in farm operations. Second reason for refusal related to the Secondary Special Amenity area. Site in from the county road.

Under PL08.247044 permission sought for a dwellinghouse was refused for the following reasons:

- Exacerbate emerging pattern of suburbanisation and contrary to development plan policy to discourage urban sprawl on edge and environs of the Hub towns

- Location in SSA which can accommodate a limited level of development – would constitute an excessive level of development – contrary to ZL-1 of the development plan
- Not satisfied applicants comply with requirements of SRHG within Area under Strong Urban Influence.

The applicant was the sister of the landowner who had inherited the family farm.

Under PL08.246033 permission sought for a dwellinghouse was refused for the following reasons:

- Not satisfied applicants comply with requirements of SRHG within Area Under Strong Urban Influence
- Exacerbate emerging pattern of suburbanisation and contrary to development plan policy to discourage urban sprawl on edge and environs of the Hub towns
- Location in SSA which can accommodate a limited level of development – would constitute an excessive level of development – contrary to ZL-1 of the development plan.

The applicant stated that he grew up in the area and now wishes to return to the location and that his parent reside within 350m of the site.

In its Direction the Board 'accepted the Inspector's view that the area in question clearly exhibits the characteristics of being under serious urban pressure, including proximity to the immediate environs of Killarney, and a significant proliferation of one-off rural housing development in the area. The Board, therefore, considered that the Inspector's application of rural housing criteria was appropriate and that any other approach would conflict with the provisions of the national Guidelines'.

I note two other appeal cases in the general area – to the north-west of the site – both proposals for one-off houses were granted permission by the Board. The context includes a cluster of housing and in both cases the subject sites had been in family ownership for decades.

5.0 Policy Context

5.1. National Planning Framework

The National Planning Framework published in February, 2018 includes the following:

- Support the sustainable development of rural areas by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities - National Policy Objective 15.
- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements - National Policy Objective 19.

5.2. Sustainable Rural Housing Guidelines

Map 1 “Indicative Outline of NSS Rural Area Types” identifies this site as being within an ‘Area under Strong Urban Influence’. In such areas the planning authority will be required to describe what is meant by ‘rural generated’ housing for the purposes of the development plan. This may include persons who are an intrinsic part of the rural community (sons and daughters of farmers and others) in which they proposed to reside.

5.3. Kerry County Development Plan 2015-2021

The overarching landscape policy for the county is:

ZL-1 To protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people’s lives.

The site is located within an area zoned '**Rural Secondary Special Amenity**', which constitutes a sensitive landscape that can accommodate a limited level of development. Three identified categories of applicant for rural housing may be considered in such areas:

- Sons and Daughters of the traditional landowner, or a favoured niece or nephew, the land having been in the ownership of the family for in excess of 10 years while being the location of the principal family residence.
- The applicant shall demonstrate a genuine rural employment need.
- The applicant's family shall have lived in the immediate locality prior to Jan 2003 with the applicant having been reared in the locality.

Section 3.1 of the plan refers to the prevention of urban sprawl in areas around the Hub towns. The site is located within an area designated a **Stronger Rural Area** in terms of settlement policy.

RS-10: Facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations.

RS-11: Consolidate and sustain the stability of the rural population and to promote a balance between development activities in urban areas and villages and the wider rural area.

5.4. **Natural Heritage Designations**

Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC is just to the north of the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main points of the appeal are:

- Site is in a rural Secondary Special Amenity Area
- Proposal constitutes urban sprawl on the edge of the town which should be encouraged under section 3.1 of the plan
- Could contravene the Water Framework Directive in proximity to the Owengarrif river which is a Special Area of Conservation
- Constitutes backland development of a haphazard nature and exacerbates urban sprawl.

6.2. Applicant Response

The main points of the first party response are:

- The house design and siting ensures it can be accommodated within the Secondary Special Amenity Area and meets development management criteria
- Connection with area proven and accepted by Case Planner
- The site is an infill site within an established cluster
- Selected site is inconspicuous and will be further planted – image of house replicates a classic traditional two-storey house
- Wastewater treatment meets criteria and will not pose threat to groundwater
- Appeal not credible
- Enclosed letter from applicant further outlines connections with area.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

7.1. Overview

In terms of the principle of the development and the policy provisions which should apply I note the conflict between the designation of the area type as defined in the SRHG and the KCDP.

I consider that the site is within an area which is under strong pressure for urban generated housing as evidenced by the pattern of development in the area and the number of planning applications under consideration by the planning authority and the Board in recent years. In addition to proximity to Killarney and the attractive landscape character the site is located close to two national roads. Killarney is a designated growth town with apparently strong and diverse range of opportunity in employment. All of these factors are likely to be driving the evident pressure for development of houses in this rural area.

I have provided some detail on three recent planning history cases in the immediate environs under the 'Planning History' section of this report. The Board has previously adjudicated that the SRHG designation of this area as an Area under Strong Urban Influence is appropriate. I support that conclusion. The designation of this area as a Stronger Rural Area is in my opinion highly questionable having regard to the strong pattern of one-off houses and taking into account the description of the character of such areas as set out in the SRHG. In addition I note that the development plan policy aims to protect the environs of the 'Hub' of Killarney.

In that context I consider that the proposed development should be considered with reference to the most restrictive policies pertaining under the SRHG and the KCDP. The level of suburban style development trends in this area is tending to undermine the landscape contrary to objective ZL-1.

The key consideration in National Policy Objective 15 is the management of growth of areas that are under strong urban influence to avoid overdevelopment (while sustaining vibrant rural communities).

7.2. Rural housing policy

I consider that the main issue for the Board to decide is whether the applicant's personal circumstances would support a grant of permission on the basis of social or economic need as identified in the recently published National Planning Framework and taking into account the limited capacity of the Secondary Special Amenity landscape to accommodate further development.

I am satisfied that the evidence is that the applicant has family connections with this area (brother resident 300m from the site and parents resident under 1km from the site) and was brought up in the area. Regarding the applicant's significant sporting achievements I consider that this matter has no place in the interpretation of planning policy, other than to assist in demonstrating local connections.

On the other hand the nature of this locality which is virtually devoid of any community facilities other than the national school and on a day to day level there would necessarily be very high reliance on the urban areas nearby. The applicants selected places of employment are in urban areas one 70km away. The site is not on family lands but is to be purchased. I consider that there is no economic basis for the application. The consequences of the proposed development if permitted would be future reliance on unsustainable modes of traffic and the perpetuation of unsustainable patterns of development in the future.

In rural areas under urban influence, it is policy to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need. Highly unsustainable patterns of development in the area existing and the indications are that the trend is unsustainable in my view. In that context my opinion is that the applicant has not an actual need to reside in this area based either on social or economic requirements. Notwithstanding the applicant's connections to this area I am completely unconvinced that any claim for a social based need is sufficient to warrant a grant of case.

7.3. Landscape and visual impacts

The area in which this site is located is under severe pressure as evidenced by the number of one-off houses along and adjacent to the minor roads. The application site is described by the planning authority as very well screened with mature trees in

place along all boundaries. I consider that this is a reasonable description of the site and in this regard note the location of the proposed house behind the existing house and the screening afforded by the sod and stone ditch and hedgerow. On balance I do not consider that a particular issue arises in relation to the landscape and visual impact of the development.

7.4. Other issues

I consider that the acceptability or otherwise of the level of development in an area should be measured by a consideration of a range of potential environmental consequences including traffic generation, land use, effect on agricultural and other rural activities and water quality and ecological impacts.

Regarding the proposed house design I consider that it is acceptable in this site context. I also consider that the conditions of the planning authority in relation to the proposed wastewater treatment system are sufficient to address any potential adverse consequences and that the site is reasonably demonstrated to be suitable in this regard. I consider that these matters are legitimate and distinct considerations which may arise. I consider that the Board's decision under PL08.246033 reflects these matters and I recommend a second reason for refusal on that basis.

I refer the Board to the consideration of Appropriate Assessment under the decision, which did not reference the matter of AA or the decision to omit the recommended third reason for refusal of the Inspector. I refer the Board to the screening undertaken by the planning authority. There is no information available on which to base a more detailed AA Screening and in particular I have insufficient information of the ecological context or the baseline conditions. In the event that this case is to be favourably considered this matter should be further investigated in my opinion.

8.0 Recommendation

8.1. I recommend that permission be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the location of the site within an Area Under Strong Urban Influence as identified in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government (2005) and to National Policy Objective 19 of the National Planning Framework (February 2018) which seeks to ensure that the provision of single housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or in the Kerry County Development Plan 2015–2021 for a house at this sensitive rural location and does not comply with National Policy Objective 19. 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, contravene the provisions of the Guidelines and the National Planning Framework and the objectives of the Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with existing dwellings in the vicinity, it is considered that the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities, would exacerbate an emerging pattern of suburbanisation that is eroding the rural character in the vicinity, and would conflict with Section 3.1 of the Kerry County Development Plan 2015-2021, which states that “urban sprawl on the edge and environs of the Hub towns...should be discouraged.” The

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

Mairead Kenny

Senior Planning Inspector

20th April 2018