



An
Bord
Pleanála

Inspector's Report ABP-300474-17

Development	Construction of a new dwelling house.
Location	Gortdonaghmore, Vicarstown, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/5470
Applicant(s)	David & Aoife Kelleher
Type of Application	Permission
Planning Authority Decision	Grant, subject to 19 conditions
Type of Appeal	Third party -v- Decision
Appellant(s)	Jim O'Sullivan
Observer(s)	None
Date of Site Inspection	22 nd March 2018
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located 5.3 km to the north-west of Blarney and 1.5 km to the north-east of Vicarstown Cross, which is on a local road (the L2751). This site is situated within open undulating countryside through which the River Shournagh flows, generally, in a southerly direction, ultimately to join the River Lee at Carrigrohane. It lies within the vicinity of two existing dwelling houses, one of which is accompanied by a sizeable outbuilding.
- 1.2. The site itself occupies the south-eastern quadrant of a field, which slopes downwards towards the eastern boundary/south-eastern corner of this field. This site extends over an area of 0.217 hectares and it is bound to the south and the east by a local road and a private road to the aforementioned outbuilding. The former boundary is denoted by means of a timber post and wire fence, intermittent deciduous trees, and a roadside ditch. The latter boundary is denoted by a timber post and wire fence, a row of coniferous trees, and an embankment. The remaining boundaries are not denoted on the ground.

2.0 Proposed Development

- 2.1. As originally submitted, the proposal would entail the construction of a four-bedroomed dormer bungalow with a floorspace of 189.71 sqm. This bungalow would be sited within the north-eastern quadrant of the site and it would be orientated on a roughly north/south axis.
- 2.2. Under further information, the design of the proposed dwelling house was changed to capitalise on the fall across the site. Thus, a split level, part single/part two storey dwelling house is now proposed, which would comprise rectangular forms under gabled double pitched roofs and ancillary flat roofs.
- 2.3. Under clarification of further information, the aforementioned revised design was modified to omit the windows from the two storey eastern elevation of the proposed dwelling house.

2.4. Access to the site would be afforded by a splayed entrance way, which would be sited towards the centre of the site's frontage with a local road. A bored well would be sunk in the north-eastern corner of the site and a waste water treatment system would be laid out towards the south-western corner. Surface water would discharge to three soakaways. The northern and western boundaries would be denoted by means of hedging and trees.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of clarification of further information, permission was granted, subject to 19 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See decision.

3.2.2. Other Technical Reports:

Area Engineer: Following receipt of further information, no objection, subject to conditions.

4.0 Planning History

The Planning Authority's planning register map shows that several applications for dwellings in the vicinity of the site were made in the first decade of the current century. Some of these applications were refused and some were permitted. From the information available on the website, it is difficult to gain a clear understanding of the number of house plots involved or the reasons why some proposals were successful and some not. Since then only one application (10/8504) has been made for a time extension to the extant permission granted to 05/7426 for the completion of a dwelling house.

5.0 Policy Context

5.1. Development Plan

Under the Cork County Development Plan 2014 – 2020 (CDP), the site is shown as lying within a Rural Area under Strong Urban Influence and within the Landscape Character Type 10b Fissured Fertile Middleground. With respect to the former designation, as the proposal is for a dwelling house, Objective RCI 4-2 is relevant and, with respect to the latter designation, landscape value, sensitivity, and importance are stated as being medium, high*, and County, respectively.

*High is cited in the Cork County Draft Landscape Strategy, which forms the basis for Appendix E of the CDP, which is entitled Landscape Character Assessment of County Cork.

5.2. Natural Heritage Designations

Shournagh Valley pNHA (site code 000103)

6.0 The Appeal

6.1. Grounds of Appeal

The appellant resides in the bungalow to the east of the application site on land lower than this site. An agricultural access road runs between the site and the said bungalow plot. The accompanying embankment is unstable and the said access road is liable to flooding, due in part to run-off from the application site.

The following points are made:

- The submitted plans do not correctly depict the site of the appellant's well. The correct position is shown on submitted photographs.
- The local road that serves the site is in poor condition and it cannot accommodate much more additional traffic.
- The field in which the site is situated has been the subject of refusals in the past. The risk of ribbon development exists.

- The site lies in an area that is under “strong urban pressure”, just to the north of the metropolitan green belt.
- Applicants with a demonstrable local housing need can, in principle, be accommodated. However, the site in question needs to be suitable and ribbon development needs to be avoided.
- The applicant has demonstrated a local housing need. Nevertheless, the site is unsuitable.

The following issues are raised:

- The proposal would be detrimental to the appellant’s residential amenity, as it would lead to overlooking and it would loom above his property, with little prospect of screening due to the aforementioned unstable boundary.
- Notwithstanding a permission in 2006, previous refusals for the site drew attention to the cumulative impact of wells, waste water treatment systems, and surface water drainage arrangements.
- The revised design would no longer be a bungalow and so it would be out of keeping with this dwelling type that predominates in the area. The omission of windows from the eastern elevation would reduce sun lighting and lead, in time, to pressure for compensatory measures, such as a conservatory, which would mark a return to overlooking.
- The proposal would be close to the appellant’s agricultural shed and so future complaints concerning noise, odours, and late-night working are anticipated.
- Site conditions, e.g. flooding, instability, and uneven topography, would militate against successful development.
- The proposal would risk an adverse precedent for ribbon development. The opportunity to assess this risk within the context of an agricultural holding does not, however, arise, as the site is in receivership.
- The aforementioned issues are recognised by the CDP.

6.2. Applicant Response

- The proposed dwelling house would maintain an appropriate separation distance from the appellant's dwelling house and its revised design would work with the levels of the site, thereby minimising the need to cut and fill.
- The eroded embankment highlighted by the appellant is on his side of the common boundary and he should liaise with the current owner of the site to ensure its stabilisation. Under the proposal, surface water run-off would drain to soakaways within the site and so it would not contribute to the said erosion.
- The appellant has corrected the position of his bore hole. This turns out to be further away from the proposed waste water treatment system than the position depicted by the applicants.
- The Roads Department considers that the local road network would be capable of accommodating the traffic generated by the proposal.
- The Planning Department considers that the proposal would not contribute to ribbon development.
- The appellant agrees with the Planning Authority that the applicants are candidates for a dwelling house on the site.
- Attention is drawn to the screening qualities of the existing row of conifers along the common boundary between the site and the appellant's property, which comprises a bungalow set in spacious grounds and a domestic garage.
- Overlooking would be avoided due to the omission of windows from the proposed eastern elevation and the absence of any intention by the applicants to introduce windows to this elevation or an extension to it in the future.
- The applicants are already aware of the appellant's outbuilding and activities associated with it and they raise no objection to the same.

6.3. Planning Authority Response

None

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Rural housing policy,
- (ii) Landscape, ribbon development, siting and design,
- (iii) Amenity,
- (iv) Traffic, access, and parking,
- (v) Water, and
- (vi) AA.

(i) Rural housing policy

7.2. Under the CDP, the site is shown as lying within the Rural Housing Policy Area Type (RHPAT) RCI 4-2: Rural Area under Strong Urban Influence. Under this RHPAT, applicants must demonstrate that they have a rural generated housing need. To this end five criteria are set out as an expression of such need and applicants must exhibit at least one of these to be a candidate for a dwelling house.

7.3. The applicants have completed a supplementary planning application form in which David Kelleher states that he has resided in Gilcaugh, Vicarstown for 17 years in a dwelling house some 1.79 km away from the subject site. This dwelling house was the home of his family of origin and is now occupied by his father, who is a widower. Under further information and clarification of further information, this applicant has submitted written confirmation that, while he attended Scoil Mhuire gan Smal in Blarney, he was indeed residing at the aforementioned address. The said form also

indicates that he has neither owned, obtain permission for, nor built a dwelling house heretofore.

- 7.4. The applicants thus rely upon criterion (d) of Objective RCI 4-2 to establish their candidacy for a dwelling house on the subject site. This criterion states the following:

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.

Thus, all parties to the current appeal accept that the applicants are candidates.

- 7.5. I conclude that the applicants are, by virtue of David Kelleher's residence in the locality of the subject site, candidates for a rural dwelling house.

(ii) Landscape, ribbon development, siting and design,

- 7.6. Under Appendix E of the CDP, the site is shown as lying within the landscape character type known as Fissured Fertile Middleground, which is of medium value, high sensitivity, and County importance. This designation reflects the provisions of the Cork County Draft Landscape Strategy 2007, which advises that, generally, this landscape character type is "able to absorb a medium amount of development due to plentiful vegetation and diversity in the landscape."
- 7.7. The subject site lies within an undulating area of countryside. An existing bungalow and dormer bungalow lie within its vicinity to the east and the field within which it is situated has treelined boundaries to the east and west, while the far roadside boundary from the site is also treelined. Given these features, I consider that, in principle, the site affords the opportunity for development that would not be overly conspicuous.
- 7.8. The appellant expresses concern that the proposal would risk the establishment of ribbon development. Objective RCI 6-3 takes exception to such development and the accompanying commentary defines it as being five or more dwelling houses on one side of a given 250m road frontage.
- 7.9. The subject site has a road frontage of 50m and the appellant's adjoining residential property to the east has a road frontage of 40m. Further to the east on the local road in question, there are no other dwelling houses on the same, northern, side of this

road. To the west, the nearest dwelling house is 290m away. Accordingly, the proposal would not risk ribbon development.

- 7.10. The proposed dwelling house would be sited in the north-eastern quadrant of the site some 18.5m back from the nearside of the local road, which passes this site. Under further information, this siting was retained, but the design of the dwelling house was changed from that of a dormer bungalow to that of a split level, part single storey/part two-storey dwelling house. This change was prompted by the quest to capitalise upon the fall in the site, which is in an easterly direction, and thereby to minimise the need for cut and fill earthworks. Consequently, the revised dwelling house would sit more comfortably upon the existing land form than its predecessor would have done.
- 7.11. The appellant critiques the aforementioned change in design on the basis that the proposed dwelling house would no longer be a dormer bungalow and so it would be out of keeping with other dwelling houses in the locality. During my site visit, I observed that the appellant's dwelling house is a bungalow and another one nearby is a dormer bungalow. Elsewhere on the local road that serves the site there are examples of bungalows, dormer bungalows, one and a half storey dwelling houses and two storey dwelling houses of different sizes and designs. Within this context, I do not consider that the proposed dwelling house would look out of place.
- 7.12. I conclude that the site would be capable of absorbing the proposed dwelling house and that its siting and revised design would be appropriate within the surrounding locality.

(iii) Amenity

- 7.13. The appellant expresses concern that the proposed dwelling house would lead to overlooking of his residential property to the east and that screening of the common boundary would be constrained by an embankment, which is presently the subject of erosion.
- 7.14. The applicants have responded to the aforementioned concern by drawing attention to the omission of windows from the presenting eastern elevation and to their intention to retain a row of conifer trees along the said boundary. They also indicate that the identified erosion is occurring on the appellant's side of the boundary and so he should liaise with the current landowner of the site in a bid to stabilise the same.

- 7.15. The appellant has commented on the omission of windows to the effect that in their absence the applicant would be likely to undertake compensatory measures in the future, e.g. to construct a conservatory. I note, however, that the existing design would incorporate a sunroom in the north-western corner of the upper ground floor and so I do not anticipate that there would be an impetus to add a conservatory to the eastern elevation. Nevertheless, the normal exempted development allowances for the proposed dwelling house could be omitted by condition to ensure that the Planning Authority has the opportunity to control any future extension proposals.
- 7.16. The appellant also expresses concern that the proposed dwelling house may lead to complaints in the future concerning the use of his outbuilding, in terms of noise, odours, and late-night working. He describes this outbuilding as an agricultural shed. The applicants have responded that they are aware of the use of this building and raise no objection to the same.
- 7.17. I have not been able to confirm the planning status of either the building or its use. Aerial photographs and my own site visit indicate that it is at some remove from the site of the dwelling house and, while the private road to it would pass the eastern boundary of the site, this is the boundary that is denoted by a row of conifers.
- 7.18. I conclude that the proposed dwelling house would be compatible with the amenities of the appellant's residential property and the standard of amenity that would be afforded to future occupiers by this dwelling house would be acceptable.

(iv) Traffic, access, and parking

- 7.19. The proposal would generate only a modest level of traffic movements. While the local road that serves the site is of variable horizontal and vertical alignment and its width and condition vary along its length, I consider that the said traffic movements would be capable of being accommodate satisfactorily on this road. Accordingly, I do not share the appellant's concern in this respect.
- 7.20. The proposal would entail the formation of a new splayed entrance way in a central position along the site's roadside frontage. The submitted site layout plan shows that sightlines with x and y dimensions of 2.4m and 90m would be available to accompany this entrance way in either direction. During my site visit, I was able to confirm the achievability of such sightlines and associated reasonable forward visibility that would be available to approaching traffic.

- 7.21. The aforementioned site layout plan shows the proposed driveway and parking and turning facilities, which would be laid out forward of the proposed dwelling house and which would be appropriate.
- 7.22. I conclude that the traffic that would be generated by the proposal would be modest and capable of being satisfactorily accommodated on the local road, which serves the site. I also conclude that the proposed access and on-site manoeuvring and parking spaces would be satisfactory.

(v) Water

- 7.23. The proposed dwelling house would be served by a bored well, which would be sunk in the north-eastern corner of the site. No details of any testing in this respect have been submitted. However, precedent exists for reliance upon bored wells in the locality and so I consider that it would be reasonable to condition the needed testing.
- 7.24. The applicant has undertaken a site characterisation exercise, which has investigated ground conditions in the south-eastern portion of the site. Trial tests have thus recorded a T value of 58.39 min/25 mm, which is too high a value to permit a septic tank system. Instead a secondary treatment plant is recommended with effluent being pumped to a tertiary treatment filter. The specification of this three-stage system is set out fully in the recommendation arising from the said exercise.
- 7.25. The appellant draws attention to the position of his bored well, which is to the south-west rather than the north-west of his garage and so closer to the site than indicated on the applicant's submitted site layout plans, i.e. c. 52m away rather than 62m. He also draws attention to the planning history of the immediate area, in which the cumulative impact of bored wells and the waste water treatment systems has been an issue.
- 7.26. I note that the groundwater protection response for the site is R2.1 and that the advice of Appendix B of the relevant EPA Code of Practice is that the installation of waste water treatment systems on such sites is acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of the sub-soil over bedrock such that the minimum depth of 0.9m is met and that the likelihood of microbial pollution is minimised. The proposed tertiary treatment filter would comply with this advice.

- 7.27. I note, too, that under Table B.3 of the relevant EPA Code of Practice, where as, in the current case, there is a down gradient well and sandy gravelly silt sub-soils are present, a minimum separation distance of 30 – 40m is required between the proposed tertiary treatment filter and any such well. In the present case a distance of over 50m would be available.
- 7.28. The proposed dwelling house would be served by a surface water drainage system, which would discharge to three separate soakaways.
- 7.29. The relevant Draft PFRA (Figure no. 2019/MAP/49/A) shows the River Shournagh River as posing a fluvial flood risk to the lands within its immediate vicinity. Likewise, the OPW's floodmaps report that Gort Bridge, which crosses this River, on the local road that serves the site was the subject of a flood event on 19th November 2009. Due to its elevated position, this site is not at risk of fluvial flooding and no other type of flood risk has been identified as pertaining to it.
- 7.30. I conclude that the proposal would appear to be capable of being both satisfactorily supplied with water and drained for the purposes of treating/handling foul and surface water. No flood risk has been identified as pertaining to the site.

(vi) AA

- 7.31. The site is neither in nor near to a Natura 2000 site. I have been unable to identify a source/pathway/receptor route between this site and any such sites in the wider County. Under the proposal, no Appropriate Assessment issues would arise.
- 7.32. Having regard to the nature and scale of the proposal and the proximity of the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That this proposal be permitted.

9.0 Reasons and Considerations

Having regard to the Cork County Development Plan 2014 – 2020 and the County Cork Draft Landscape Strategy 2007, it is considered that the applicants are

candidates for a rural dwelling house on the site and that, subject to conditions, the proposed dwelling house in its revised design would be compatible with the visual and residential amenities of the area. Furthermore, this dwelling house would be capable of being satisfactorily accessed and serviced. No Appropriate Assessment issues would arise. The proposal would thus accord 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 amended by the further plans and particulars submitted on the 8th day of September 2017 and the 10th day of November 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. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the

applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

4.
 - (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority with the application 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 dwelling house 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 soakaways 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.

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. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) The establishment of hedgerows along the northern and western boundaries of the site, and
- (b) The planting of trees along these boundaries, too.
- (c) Existing trees on the southern and eastern boundaries shall be retained.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

7. 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.

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

Reason: In the interest of visual amenity.

9. (a) The entrance gate(s) to the proposed house shall be set back not less than four metres and not more than six metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not

less than 45 degrees and shall not exceed one metre in height.

(b) The gradient of the access driveway shall not exceed 3% for the first seven metres adjacent to the carriageway of the public road.

Reason: In the interest of traffic safety.

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

11. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwelling houses without a prior grant of planning permission.

Reason: In the interest of residential amenity.

12. The developer shall pay to the planning authority a financial contribution of €4449 (four thousand four hundred and fort-nine euro) 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. The application of any indexation required by this condition 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.

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.

Hugh D. Morrison
Planning Inspector

19th April 2018