



An
Bord
Pleanála

Inspector's Report ABP.301411-18

Development	Erect a dwelling house served by an effluent treatment tank and polishing filter
Location	Cloghanelinaghan, Cahersiveen, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	18/83
Applicant(s)	Hubert Steijns & Margot Ferwerda
Type of Application	Planning permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Hubert Steijns & Margot Ferwerda
Observer(s)	None.
Date of Site Inspection	30 th June 2018
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located in the townland of Cloghanelinaghan, approx. 3km to the north east of Cahersiveen, on the northern side of the Valencia River. This is a rural area which is separated from the town by the river and is served by a long, straight local road which runs parallel to the estuary. The site is located on the southern side of the local road and is accessed from a private roadway which serves 2 houses and farmland. The local road is quite narrow with no hard shoulders or line markings.
- 1.2.** The site area is given as 0.616ha. The site is rectangular in shape and has no road frontage. It is proposed to provide a new access drive from the private lane to serve the site. The applicants' landholding extends from the local road southwards along the lane towards an existing cluster of buildings which include a cottage, an art studio and a horse stable. However, the landholding excludes an existing house on the eastern side of the lane, which is in separate ownership. The landholding includes frontage to both the local road and the private lane.

2.0 Proposed Development

- 2.1.** It is proposed to erect a single-storey dwelling in the centre of the site with a stated floor area of 174sq.m and the maximum height as 3.8m. The dwelling would be accessed by means of a new entrance from the private lane which would be approx. 12m from the junction with the local road. The proposed driveway diagonally crosses the field which adjoins the local road. The site itself is located to the east of the site containing the house in separate ownership and further land to the south of that plot. There is an existing alternative entrance to the site from the south which is via an agricultural entrance and track across a field.
- 2.2.** The proposed dwelling is designed as a single storey low-level structure with a sloping grass roof. It is designed to be wheelchair accessible. The accommodation incorporates one bedroom/ensuite, a guest room that doubles as an art studio, a living room and a kitchen/utility area. The applicants have indicated that as they are ageing, it is proposed to downsize to this dwelling to enable a family member to "take over" the existing cottage and associated buildings on the farm.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for one reason which was based on failure to comply with the Rural Settlement Strategy due to the absence of a housing need, and would further contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report noted the location of the site in a **Stronger Rural Area** and in an area designated as **Rural Secondary Special Amenity**. It was further noted that a previous application for a retention of alterations and extension to the existing house on the adjoining land to the south was granted to the applicants in October 2017 (Ref. 17/501), which it was considered clearly indicated that the applicants don't have a housing need. It was further noted that the floor area of the existing house (172m²) is roughly equivalent to that of the proposed dwelling (174m²), and that as such, it does not represent 'downsizing'.

No issues were raised in respect of the proposed wastewater discharge proposals, surface water discharge proposals, visual amenity or access/road safety. The sightlines at the junction were considered to be adequate and the site was considered to be very well screened from the public road. It was considered that EIA was not required given the nature, scale and location of the project. Appropriate Assessment Screening was carried out and it was concluded that there is no likely potential for significant effects to Natura 2000 sites. Refusal was recommended for the reason which was generally in accordance with the reason given by the P.A. in its decision.

3.2.2. Other Technical Reports

Environment – The SAU carried out a visual assessment of the site and noted that the lands are in agricultural use with grass, some rush growth, dry and firm ground

conditions with no surface water ponding or rock outcrops. The roadside drains were noted to be free flowing. Depth to bedrock was 1.9m The T value was noted as 30.94, which indicates that the site is suitable for a conventional septic tank system. The proposal to provide a secondary treatment system and final polishing filter was considered to be acceptable. No objection subject to conditions.

County Archaeologist – there are no recorded monuments listed in either the Record of Monuments and Places or sites & Monuments Record in proximity to the proposed development. However, given the scale of the site, pre-development archaeological testing is recommended with a report to be submitted prior to any grant of planning permission.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

There is no planning history on the application site but planning decisions have been made in respect of the remainder of the landholding to the south.

PA Ref 97/2542 – planning permission granted for renovation and extension of old house and erection of a garage/store building.

PA Ref 03/1702 – planning permission granted for erection of a wind rotor for generating electricity for domestic use.

PA Ref. 17/501 – Retention permission granted for alterations and extension to existing house, septic tank, private studio, carport and private shed, all within revised site boundaries.

5.0 Policy Context

5.1. Development Plan

Kerry County Development Plan 2015-2021

In terms of Rural Settlement Policy, (3.3), the site is located in a **Stronger Rural Area** which is described as one where population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. The key challenge is stated to be to strike a balance between residential development in the towns/villages and in the rural areas.

Objectives RS1-RS6, inclusively, set out the policy for rural housing generally and requires compliance with the Sustainable Rural Housing Guidelines, the KCC Rural House Design Guidelines (2209), EPA Code of Practice (WWTPs) and to ensure that all permitted rural dwellings are for use as the primary permanent residence of the applicant. These objectives also seek to give favourable consideration to vacant sites within existing clusters and to ensure that rural housing will protect the landscape, the natural and built heritage, the economic assets and the environment of the county (**RS-4**).

There are two further objectives which relate specifically to Stronger Rural Areas, namely, **RS-10** which seeks to facilitate the provision of dwellings for people who are intrinsic to the area and **RS-11** which seeks to consolidate/sustain the stability of the rural population and to provide a balance between development activity in urban areas and villages and the wider rural area.

Section 3.3.2 relates to development in Amenity Areas. The site is located within a **Secondary Special Amenity Area**, which are described as constituting sensitive landscapes which can accommodate a limited level of development, which will depend on the degree to which it can be integrated into the landscape. This is described as an additional policy response, and where there is an overlap, the policies relating to Amenity areas will take precedence. Certain provisions apply to SSAAs. These include a requirement for dwellings to be designed sympathetically to the landscape, to be sited such that they do not negatively impact the landscape, that they are not unduly obtrusive in terms of siting and design, with an emphasis on the retention of trees and hedgerows. In terms of settlement policy, sons/daughters

or favoured nieces/nephews of the traditional landowner (in ownership for 10 years) will be required, or demonstration of genuine rural employment need or family living in locality prior to January 2003 with the applicant having been reared in the locality.

5.2. Natural Heritage Designations

The site is within 15km of four European Sites. These are

- Killarney National Park, Macgillycuddy Reeks and Caragh River Catchment SAC (Site Code 000365);
- Ballinskelligs Bay and Inny Estuary SAC (Site Code 000335);
- Valentia Harbour and Portmagee Channel SAC (Site code 002262); and
- Iveragh Peninsula SPA (Site code 004154).

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is a first party appeal against the decision to refuse planning permission. The main points raised may be summarised as follows:

1. Connection with the area

- The applicants bought the small landholding of 15 acres over 20 years ago and restored the old stone dwelling to the south. They are fully integrated into the community

2. Need for the proposed dwelling

- The existing house has an associated studio, which one of the applicants uses as her art studio, from where she operates as an artist. This has a floor area of 80sq.m, which when combined with the floor area of the existing dwelling house, brings the total area of existing accommodation to 252sq.m. the proposed development incorporates a studio of 35sq.m. Thus, the proposed dwelling constitutes downsizing to 174sq.m.
- The work on the farm is becoming physically and mentally a burden with a growing risk of accidents. One of their relatives has agreed to take over the

farm in the near future, which means that they need to build a new house on the landholding.

- The applicants are ageing and one of the is 80 years old. The house has been designed with the needs of older and disabled people in mind, as one of the applicants is an occupational therapist. It is hoped that by constructing the proposed dwelling, they will avoid the need for a nursing home or hospital in the future, as it is wheelchair accessible.

3. Visual Amenity

- The proposed development cannot be seen from the road as it is screened by 1.2 acre woodland of 20-year-old native trees. The proposed building is located more than 100m from the main road.
- The proposed building is fully integrated with the landscape and cannot be seen from the Ring of Kerry. It has 12 foot high earthen banks on the north side with a grass roof.

4. Precedent and the Development Plan

- The Area is designated as a Rural Secondary Special Amenity Area. Over the years, 17 dwellings have been constructed in the area to the north of the Fertha Estuary, of which 6 have been built since 2008. Three dwellings have been built in the townland of Cloghanelinaghan since the current development plan was adopted.

6.2. Planning Authority Response

The P.A. has not responded to the grounds of appeal.

6.3. Observations on the Grounds of Appeal

None received.

7.0 Assessment

- 7.1. It is considered that the main issue arising from the appeal relates to Settlement Policy in the Stronger Rural Areas and the Rural Secondary Special Amenity Area.

7.2. Compliance with Settlement policy

- 7.2.1. The site is located in a Stronger Rural Area, which is one where the population levels are generally stable and the key challenge is to maintain a balance between the development activity in the urban areas and housing proposals in the wider rural area. Objectives RS-10 and RS-11 seek to facilitate the provision of dwellings for persons who are an intrinsic part of the rural community as well as consolidating and sustaining the stability of the rural population. The applicants have been living on the landholding for at least 20 years, and I would accept that are an intrinsic part of the community. However, the applicants already live in a rural house in the area and the site is also situated within an area designated as Rural Secondary Special Amenity, where further policies apply and in the event of an overlap/conflict, the amenity policies take precedence.
- 7.2.2. The Rural Secondary Special Amenity Areas relate to sensitive landscapes which have a limited assimilative capacity for development. The level of development depends on the degree to which it can be integrated into the landscape, but is also regulated by settlement policies in accordance with Section 3.3.1 and Table 3.7 of the Development Plan. Development applications will only be accepted from sons or daughters of the traditional landholder, or from a favoured niece or nephew, where the landholding has been in the ownership of the family for more than 10 years. Alternatively, the applicant must demonstrate genuine rural employment need or the applicant's family must have lived in the immediate locality prior to Jan. 2003 with the applicant having been reared in the locality.
- 7.2.3. The information submitted with the application and appeal makes no reference to the requirements of the RSSA as set out in 7.2.2 above. In the application form, it was stated that it was intended to sell the existing house/farm and to downsize to the proposed dwelling. The grounds of appeal, however, state that

“one of our relatives has decided to take over in the near future which results in us having to move out of the house where we are living now and the wish to build a new house on 1.4 acres of our land, according to the needs of our age.”

Thus, there is no evidence that the original dwelling/farm would be transferred to/occupied by the son/daughter or favoured niece/nephew of the landowner. Neither is there any evidence of a genuine rural employment need. The applicants have

clearly lived on the landholding for over twenty years and hence satisfy part of the remaining criteria, but neither of the applicants was reared in the locality.

- 7.2.4. Given that the applicants already reside on the landholding, I would agree with the P.A. that a rural generated housing need for a house at this location has not been demonstrated. Notwithstanding this, it is considered that if the existing dwelling was to be occupied by a close relative as provided for in the CDP policy for RSSAs, the proposal could be deemed to have met the criteria. However, in the absence of any evidence to this effect, the application should be refused.

7.3. Visual amenity

- 7.3.1. The proposed development must also comply with the provision relating to protection of the landscape as it is located within a Rural Secondary Special Amenity Area. Development proposal must be designed sympathetically to the landscape and be located on sites that do not negatively impact on the landscape character and such that they are not unduly obtrusive in their siting and design.

- 7.3.2. It is considered that the siting of the proposed dwelling on a site which is well set back and screened from the public road and any sensitive area of the landscape, together with the design of the dwelling, with its low height, use of natural materials and a grass roof mean that the proposed development would be well integrated into the landscape. As such, the proposed development would comply with the provisions for the Rural Secondary Special Amenity area, other than the housing need element.

7.3.3. Appropriate Assessment

- 7.3.4. The P.A. reports screened out appropriate assessment. It is noted that the closest European site is Iveragh Peninsula SPA (004154), which is 2km to the west. The site is located approximately 3km from Killarney National Park, Macgillycuddy Reeks and Caragh Lake Catchment cSAC (000365); c. 4km from Valentia Harbour and Portmagee Channel SAC (00262) and approx. 10 km from Ballinskelligs Bay and Inny Estuary SAC (00335).

- 7.3.5. Given the small scale of the development, the distances involved, and the absence of any indication of a hydrological link to the European sites, it is considered that Appropriate Assessment issues can be ruled out at this stage.

8.0 Recommendation

- 8.1.** It is recommended that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the location of the site within a rural area designated as a Secondary Special Amenity Area in the current Kerry County Development Plan 2015-2021 and to the fact that the applicants reside in a dwelling house in their ownership on adjoining lands to the south, it is considered that a rural generated housing need for an additional house at this location has not been identified. The proposed development, in the absence of any identified rural-generated housing 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 proper planning and sustainable development of the area.

Mary Kennelly
Senior Planning Inspector

30th August 2018