



An  
Bord  
Pleanála

## Inspector's Report ABP-301574-18

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| <b>Development</b>                  | Construct a single storey dwelling, effluent treatment unit with percolation area and all associated site works. |
| <b>Location</b>                     | Killathy, Ballyhooley, Co. Cork.                                                                                 |
| <b>Planning Authority</b>           | Cork County Council.                                                                                             |
| <b>Planning Authority Reg. Ref.</b> | 18/4386                                                                                                          |
| <b>Applicant(s)</b>                 | Maura O' Sullivan                                                                                                |
| <b>Type of Application</b>          | Permission.                                                                                                      |
| <b>Planning Authority Decision</b>  | Refuse Permission.                                                                                               |
| <b>Type of Appeal</b>               | First Party                                                                                                      |
| <b>Appellant(s)</b>                 | Maura O' Sullivan                                                                                                |
| <b>Observer(s)</b>                  | None.                                                                                                            |
| <b>Date of Site Inspection</b>      | 6 <sup>th</sup> September 2017                                                                                   |
| <b>Inspector</b>                    | Fiona Fair.                                                                                                      |

## 1.0 Site Location and Description

The appeal site, with a stated area of 0.34 ha, is located at Killathy, Ballyhooley, Co. Cork. The site adjoins the southern side of the N72 National Secondary Road, which links Mallow with Fermoy. The site lies to the east of Killathy Church (in ruins) and is sited approx. 1.75 Km to the east of the settlement boundary of the Key Village of Ballyhooley. The site is located approx. 6.5 Km to the west of Fermoy Town.

The surrounding area is rural in nature with sporadic one-off housing present. The River Blackwater is located some 170 m to the south and part of the River Blackwater Special Area of Conservation (SAC) is located approx. 60 m distant. Killathy Wood (pNHA) lies a short distance to the south.

The applicant's sister resides in a dwelling to the immediate west of the subject appeal site, permitted on foot of Reg. Ref. 06/7616 & Reg. Ref. 09/7194 (change of design). This dwelling comprises a storey and a half type dwelling. Access to the subject appeal site is proposed by way of a shared right of way access with the existing dwelling.

The site is relatively flat although levels rise gently across the site from east to west, rising by c. 1.5 m. There is an existing natural boundary along the northern roadside boundary to the site and a wire mesh fence along the western boundary. The southern and eastern boundaries are undefined. The field is currently in agricultural use.

## 2.0 Proposed Development

2.1. The proposal comprises permission for construction of:

- A single storey dwelling, (127.60 sq. m ridge height of 5.1m)
- Effluent treatment unit with percolation area
- All associated site works.

The applicant has submitted a supplementary application form with the application.

- The applicant currently resides in the family home to the east of the site and has done so for 30+ years.
- The applicant does not own and has never owned a residential property.
- The appeal site is sited on lands that forms part of the family landholding.
- The applicant is a teacher and is employed in Scoil Aonghusa, Cahir Road, Cashel, Co. Tipperary.
- The applicant has elderly parents in need of support.
- The maps that accompany the supplementary application form indicate that the applicant's family home is located 480m to the east of the site.
- The applicant has submitted land registry details indicating that the dwelling house and the associated lands, incl. the subject site have been in the ownership of the applicant's father since 1970.
- A letter of consent to making the application and a letter granting right of way access is attached.
- A Site Characterisation Form and treatment unit details is enclosed.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Planning permission was refused for two number reasons, summarised as follows:

1. The proposed development would be contrary to Objective TM 3 – 1 (d) of the Cork County Development Plan 2014 which seeks to avoid the generation of increased traffic from existing accesses onto national roads to which speed limits greater than 50 kph apply. The proposed development with access onto a national road, where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movements of the extra traffic generated.
2. The site is located in a High Value Landscape, an area designated in the Cork County Development Plan 2014. The proposal would visually intrude on an

area of high value landscape, would be contrary to policy objectives GI 6-1 and GI 6-2 as it would undermine the visual amenity of the area and therefore would be contrary to the proper planning and sustainable development of the area.

### 3.2. **Planning Authority Reports**

#### 3.2.1. **Planning Reports**

The Planners Report sets out that increasing the operating capacity of the entrance onto the N72, at a point where maximum speed limit applies, through the provision of a second dwelling, is a significant concern. There is also concern about the capacity of the site to accommodate the dwelling proposed given that it is located in an area of high landscape value.

**Area Engineer:** Report recommends that permission be refused.

**Liaison Officers:** Report indicates No comment

#### 3.2.2. **External Reports**

**Transport Infrastructure Ireland:** Report sets out that the proposal, if approved, would create an adverse impact on the national road where the maximum speed limit applies.

### 3.3. **Third Party Observations**

None.

## 4.0 **Planning History**

None on the appeal site itself

#### **Adjoining Site to the north-east.**

**Reg. Ref. 05/7280** Permission refused to R. Whitley for a dwelling by reason of traffic hazard and interference with a view of special amenity.

**Reg. Ref. 07/7908** Permission refused to R. Whitley for a dwelling by reason of traffic hazard and interference with a view of special amenity.

**Reg. Ref. 08/9639** Permission was ultimately granted to erect a dwelling house, to R. Whitley, albeit that refusal of permission was recommended by the area planner and the senior executive planner.

#### **Adjoining site to the west**

**Reg. Ref. 06/7616** Permission granted to erect a dwelling house, Gillian O'Sullivan.

**Reg. Ref. 09/5532** Permission refused for construction a storey and a half style dwelling, new site entrance and wastewater treatment system, Siobhan O'Sullivan and Noel Howley, by reason of traffic hazard.

**Reg. Ref. 09/7194** Permission granted for construction of a storey and a half style dwelling and wastewater treatment system (change of plan from that permitted under PL Reg. No. 06/7616, Gillian O'Sullivan.

## **5.0 Policy Context**

### **5.1. Development Plan**

The site is governed by the policies and provisions contained in the Cork County Development Plan 2014.

The site is located within an area defined a 'Rural Area under Strong Urban influence'. The policy for the area is outlined under Chapter 4: Rural, Coastal and Islands.

The following policies are of relevance to this application. Relevant excerpts of the Development Plan are attached as appendix to this report.

RCI 2-1: Urban Generated Housing

RCI 2-2: Rural Generated Housing

RCI 4-2: Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1)

RCI 6-1 relates to design and landscaping of new dwellings in rural areas.

RCI 6-2 seeks to ensure that proposals incorporating proprietary treatment systems comply with the appropriate code of practice.

RCI 6-3. Ribbon development

GI 6-11 Landscape

## 5.2. Natural Heritage Designations

The appeal site is located approx. 170 m to the north of the River Blackwater and is sited c. 60 m to the north of a terrestrial part of the River Blackwater Special Area of Conservation (SAC Site code 002170), which extends up to and includes Killathy Wood (proposed NHA site code 001795) which lies to the south of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The issues raised within the First party appeal are summarised as follows:

- The reason for refusal (number 1) does not take into account that the applicant already lives in her parents' house which is adjacent to the appeal site.
- She is proposing to share an existing entrance with her sister.
- The site entrance is onto a straight stretch of road, with good sightlines. The entrance to the parents' house is adjacent to a gradual bend. Therefore, traffic hazard on the road would be reduced, if anything.
- Cork County Council recently granted planning permission 17/4827 for a dwelling with access onto an adjacent cul de sac roadway. This roadway directly accesses onto the national secondary route.
- Intensive landscaping is proposed.
- Dwelling proposed is modest and based upon the rural house design code for Cork County Council.
- The ridgeline is 5.1m over FFL of 59.6 m OD
- The applicant has a genuine housing need, is from the area, is involved in the local community, and there are also health grounds to be taken into account.

- An alternative site on the landholding was considered but discounted by way of discussion with the p.a.
- The subject site is the most suitable site. The applicant has gone to considerable expense and put in considerable time to making the application.
- The applicant is not intensifying any additional traffic onto the NSR but merely moving her associated traffic to a safer, more visible, location.
- The appeal is accompanied with a letter from the applicant Maura O'Sullivan setting out compliance with rural housing need policy and her genuine need to reside at this location.

## 6.2. **Planning Authority Response**

- No response received.

## 7.0 **Assessment**

7.1. I consider the key issues in determining this appeal are as follows:

- **Principle of the Development / Rural Housing Policy**
- **Design / Visual Impact**
- **Traffic Safety**
- **Environmental Impact Assessment (EIA)**
- **Appropriate Assessment (AA)**

### 7.2. **Principle of the Development / Rural Housing Policy**

7.2.1. The site is located within an area designated 'Rural Area under Strong Urban Influence' as per Figure 4.1 Rural Housing Policy Area Types of the Cork County Development Plan 2014 – 2020.

7.2.2. Objectives RCI 2-1 and RCI 2-2, set out in section 4.2.7 of the Plan, are pertinent to the subject appeal case. I note in particular RCI 2-1: Urban Generated Housing which states: 'Discourage urban generated housing in rural areas, which should

normally take place in the larger urban centres or the towns, villages and other settlements identified in the Settlement Network’.

7.2.3. Section 4.4 of the Plan sets out ‘Categories of Rural Generated Housing Need’. Under ‘RCI 4-2 Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1)’ the Plan provides that applicants for rural housing in this area must satisfy the planning authority that their proposal constitutes a genuine rural generated housing need based on their social and / or economic links to a particular local rural area and in this regard must demonstrate they comply with one of the following categories of housing need:

a) ‘Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm’.

b) ‘Persons taking over the ownership and running of a farm on a fulltime basis...’

c) ‘Other persons working fulltime in farming, forestry, inland waterway or marine related occupations....’

d) ‘Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation’.

e) ‘Returning emigrants...’.

7.2.4. The applicant has submitted a supplementary application form and supporting documentation wherein the applicant outlines that she currently resides and has done so for 30 years + in the family home to the east of the site. That she does not own a residential property and has never received planning permission for a house in a rural area previously. The appeal site is sited on land that forms part of the family landholding. It is submitted the applicant has a genuine need to reside close to family and that the dwelling would be her primary place of residence, in accordance with rural housing need as per the County Development Plan. This is not disputed by the planning authority. It is noted that the applicant’s sister resides in a property to the immediate west, permitted on foot of Reg. Ref. 06/7616 and that the applicant is employed as a teacher in Scoil Aonghusa, Cahir Road, Cashel, Co. Tipperary, some 65 Km distant from the subject appeal site.



7.2.5. Overall, on the basis of the foregoing, I agree with the planning authority that the applicant appears to satisfy the relevant eligibility criteria set down in RCI 4-2 (d) of the County Development Plan.

### 7.3. Design / Visual Impact

- 7.3.1. The site adjoins the southern side of the N72 National Secondary Route, which links Mallow and Fermoy. The landscape is rural in nature and designated as 'High Value Landscape', in the Cork County Development Plan 2014. Scenic Route Ref. No. S9 'Castlehyde to Fermoy Bridge' is located a short distance to the east of the subject appeal site and Scenic Route Ref. No. S10 'Road adjoining Ballyhooly with view to Philip Wood, Johnston Wood and Gurteen Wood' is located to the west. There is no scenic route designation along the frontage of the appeal site itself. The site which is currently in agricultural use, is relatively flat and open in nature, there are clear views across the site from the N72 route.
- 7.3.2. The second draft reason for refusal by the planning authority considered that the proposed development does not meet the standards required by virtue of its design and the lack of adequate detail in terms of landscaping. That the proposal would visually intrude and on an area of high value landscape, would be contrary to policies GI 6-1 and GI 6-2 as it would undermine the visual amenity of the area.
- 7.3.3. The first party has submitted a landscaping plan which proposes to retain the existing sod and stone wall, to plant 7 no. maple trees, 5 no. beech trees, 7 no. silver birch, 10 no. mixed holly variety and 6 no. wild cherry trees. It is submitted that the programme for implementation would be carried out during the first planting season after the completion of the dwelling and the site works. It is argued that the dwelling proposed is modest and based upon the rural house design code for Cork County Council.
- 7.3.4. Cognisance is had that the proposed dwelling is modest in terms of GFA (127.60 sq. m), its height (a ridgeline is 5.1m over FFL of 59.6 m OD) and that extensive excavation, loss of trees, breaking of skyline would not be required to construct the access, driveway and proposed dwelling. Cognisance is also had to the number of adjoining established dwellings in this 'High Value Landscape', designated area.

7.3.5. Given the precedent set for non-bespoke design, proposed scale, mass and finish, I am of the opinion that the landscape plan proposed, if implemented would be sufficient to ameliorate the visual impact of the proposed dwelling within its setting. It is my opinion that landscaping as proposed would be sufficient to overcome the draft reason for refusal in this regard.

#### **7.4. Traffic Safety**

7.4.1. The first draft reason for refusal considers that the proposed development would be contrary to Objective TM 3 – 1 (d) of the Cork County Development Plan 2014 which seeks to avoid the generation of increased traffic from existing accesses onto national roads to which speed limits greater than 50 kph apply. It is the conclusion of the planning authority that the proposed development with access onto a national road, where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movements of the extra traffic generated.

7.4.2. The area engineer recommends that permission be refused given the existing policies with regard to the creation of increased traffic from an access point on a National Road. Transport Infrastructure Ireland concludes that the proposal, if approved, would create an adverse impact on the national road where the maximum speed limit applies. The area planner is of the opinion that increasing the operating capacity of the entrance onto the N72, at a point where maximum speed limit applies, through the provision of a second dwelling, is a significant concern.

7.4.3. The first party argues that it has not been taken into account that the applicant already lives in her parents' house which is adjacent to the appeal site. That the applicant is not intensifying any additional traffic onto the NSR but merely moving her associated traffic to a safer, more visible, location. Cognisance is had that the proposal seeks to avail / share an existing entrance, which serves the dwelling to the immediate west. The plans and drawings submitted indicate an access right of way to serve the proposed dwelling via the dwelling access to the west.

7.4.4. Objective TM 3-1 of the Cork County Development Plan 2014 regarding the National Road Network states that it is an objective to:

- c) 'Restrict individual access onto national roads, in order to protect the substantial investment in the national road network, to improve carrying capacity, efficiency and safety and to prevent the premature obsolescence of the network'.
- d) 'Avoid the creation of additional access points from new development or the generation of increased traffic from existing accesses onto national roads to which speed limits greater than 50kph apply'.
- e) 'Prevent the undermining of the strategic transport function of national roads and to protect the capacity of the interchanges in the County from locally generated traffic'.

- 7.4.5. Clearly the proposed development would intensify the use of an existing entrance onto the N72 where the maximum speed limit applies and would therefore be contrary to TM 3-1 of the Cork County Development Plan and would also be contrary to Department of Environment, Community and Local Government Guidelines 'Spatial Planning and National Roads' 2012. I do not consider the argument put forward by the first party is robust and or overcomes this reason for refusal.
- 7.4.6. The proposal if approved would be contrary to national policy, would result in an intensification of an existing direct access onto a national road where the maximum speed limit applies and would therefore, by itself and by precedent, endanger public safety by reason of traffic hazard.

## 7.5. **Environmental Impact Assessment (EIA)**

- 7.5.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 7.6. **Appropriate Assessment (AA)**

- 7.6.1. The closest European Site is the River Blackwater Special Area of Conservation (SAC Site code 002170), which lies approx. 60 m to the south of the site.

7.6.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest Natura 2000 sites. No Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## 8.0 Recommendation

8.1. I recommend that planning permission should be refused for the following reason.

## 9.0 Reasons and Considerations

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard because the site is located alongside the heavily-trafficked National Primary Road N72 at a point where a speed limit of 100 km/h applies and the traffic turning movements generated by the development would interfere with the safety and free flow of traffic on the public road.

The proposed development would also contravene Objective TM 3-1 of the Cork County Development Plan 2014, which is considered reasonable, to preserve the level of service and carrying capacity of the National Primary Road and to protect the public investment in the road.

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Fiona Fair  
Planning Inspector  
18/09/2018