



An  
Bord  
Pleanála

## Inspector's Report ABP 301686-18

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<b>Development</b>	Dwelling and associated site works.
<b>Location</b>	Ardconnell, Ardfert, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	17/1227
<b>Applicants</b>	James Godley & Maura Walsh
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	1 <sup>st</sup> Party v. Refusal
<b>Appellants</b>	James Godley & Maura Walsh
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	26/07/18
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site, which originally had a stated area of 0.69 hectares and which was reduced to 0.30 hectares by way of further information, forms part of a larger field in agricultural use in the townland of Ardconnell c. 1.7km to the north of Ardfert village and c.10km to the north of Tralee in North County Kerry. The general area is characterised by agricultural activities with one off housing prevalent along the local road network.

The site is at the highest point of the field which falls to the south with the field boundaries delineated by hedgerows. It is accessed via a narrow local road at a point where there is a sharp 90 degree bend in the road. There is a dwelling and farmyard on the opposite side of the road with an access to a further farmyard immediately to the east of the proposed access. The agricultural buildings and family home are located downslope and to the south of the appeal site.

## 2.0 Proposed Development

The application was lodged with the planning authority on the 11/12/17 with further plans and details submitted 05/03/18 following a further information request dated 12/02/18. Copies of revised public notices were submitted 22/03/18 and 10/04/18.

It is proposed to construct a 1 ½ storey dwelling with a stated floor area of 332.28 sq.m. The dwelling has a ridge height of 6.235 metres. A 46.16 sq.m.detached garage is also proposed.

The dwelling is to be served by a septic tank and percolation area. A completed site characterisation form accompanies the application. Water was encountered at a depth of 3.30 metres in the trial hole. A T value of 21.72 and P value of 18.75 were recorded.

Water supply is to be from public mains.

One of the applicants is the son of the landowner.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse permission for the following reason:

*It is considered that the proposal to locate a dwelling house on this prominent and exposed site would seriously injure the amenities of the area by reason of its obtrusiveness. The proposed development would interfere with the character of the landscape, which is necessary to preserve in accordance with Objective ZL-1 of the Kerry County Development Plan 2015-2021. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The 1<sup>st</sup> Planning report dated 09/02/18 includes a sub-threshold EIA screening and AA Screening. The site is 'tucked' to the east behind a hedgerow to some extent and is located further from the public road than conventional road side development. This arrangement is acceptable but due to the rise in the terrain may impact negatively on the landscape. The local road is narrow but in fair condition. Sight lines are satisfactory. It is not considered that traffic generated by an additional dwelling is likely to compromise the capacity of the existing road. It would not seriously injure the residential amenities of property in the vicinity. A request for further information is recommended on pre-archaeological testing, visual impact and compliance with settlement location policy.

The 2<sup>nd</sup> report dated 03/05/18 following further information notes that the site area has been reduced to below the threshold for triggering the requirement for archaeological testing. From an inspection of the poles erected on the site the location of the dwelling is near the crest of a local rise, and given the relatively flat terrain in the area, it would be a prominent location for a new dwelling. Having regard to the prominent and open nature of the site and the scale and bulk of the dwelling a refusal of permission on visual impact grounds is recommended.

### 3.2.2. Other Technical Reports

County Archaeologist notes that there are no recorded monuments in proximity however given the scale of the site pre-development testing should be carried out and a report submitted prior to a grant of permission.

Site Assessment Unit, Environment Section has no objection subject to conditions.

Water Services has no objections.

### 3.3. Prescribed Bodies

Irish Water has no objection.

### 3.4. Third Party Observations

Objections to the proposal received by the planning authority raised issues relating to road safety, traffic hazard, flooding along road, landscape, proximity to adjoining property, archaeology and availability of alternative sites.

## 4.0 Planning History

I am not aware of any previous applications on the site.

## 5.0 Policy Context

### 5.1. Development Plan

Kerry County Development Plan 2015

RS-1 ensure that future housing in all rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG) and the Development Guidance document of this plan.

RS-2 require the design of rural housing to have regard to the 'Building a House in Rural Kerry: Design Guidelines' (KCC 2009).

RS-4 ensure that the provision of rural housing will protect the landscape, the natural and built heritage, the economic assets and the environment of the County.

RS-5 ensure that future housing in all rural areas complies with the EPA's 2009 Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses.

RS-6 ensure that all permitted residential development in rural areas is for use as a primary permanent place of residence. In addition such development shall be subject to the inclusion of an occupancy clause for a period of 7 years.

The site is located within an area designated as being a Stronger Rural Area.

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.

The site is within an area designated for Rural General. This constitutes the least sensitive landscape from a visual impact point of view and has the ability to absorb a moderate amount of development without significantly altering its character.

Section 12.2.1 – it is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development.

ZL-1 protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to peoples' lives.

## **5.2. Natural Heritage Designations**

The Tralee Bay Complex SPA (site code 004188) and Akeragh, Banna and Barrow Harbour SAC (site code 000332) are c. 3km to the west.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The submission by Brendon O'Connell Associates on behalf of the applicants, which is accompanied by amended plans and drawings, can be summarised as follows:

- The dwelling would not be overbearing. It would be lower than the neighbouring farmhouse and sheds.

- A proposed amendment to the house would reduce its height from 6.2 metres to 5.7 metres.
- The ground level could also be reduced by 600mm.
- The dwelling can be relocated to the left side of the site so as to protect views of the neighbouring property. It would not devalue this property.
- The dwelling does not front onto the neighbouring property.
- Good sight distances can be attained at the proposed access.
- The front boundary will only be removed to facilitate the access so privacy from the mature hedge is maintained.
- The site will be landscaped to the rear to counteract the site's openness.
- The site is suitable for a dwelling. The applicant is a part time farmer and wants to live on the farm but not in immediate proximity to the family home or farm buildings.
- The lower land nearer to the farm sheds is prone to flooding.
- It forms a cluster with the existing buildings in the vicinity.

## 6.2. Planning Authority Response

None

## 6.3. Observations

None

## 7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings.

- Compliance with settlement location policy
- Visual Impact
- Other Issues

- Appropriate Assessment

### 7.1. **Compliance with Settlement Location Policy**

This is an application for a single one off house and effluent treatment system located within an area designated as a ‘Stronger Rural Area’ in the current County Development Plan. Such an area is identified as generally having a stable population level that is supported by a traditionally strong rural/agricultural economic base. The key challenge is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas. Objective RS-1- states that it is an objective to facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised.

One of the applicants is stated to be the landowner’s son. Whilst stated to be employed in farming on the completed supplementary form accompanying the application this is somewhat qualified in the grounds of appeal in which it is stated that he will, in time, take over farming as a part time farmer. Supplementary detail as to his attendance at the local school was submitted by way of further information. I therefore accept that the applicants comply with the relevant settlement location policy as detailed above in that Mr. Godley is from the area. However as noted in objective RS-1 the acceptability of the proposal in terms of settlement policy is predicated on other planning and environmental considerations being satisfied.

### 7.2. **Visual Impact**

The site, whilst not within an area designated as being of scenic amenity in the current county development plan, has an innate quality and has visual merit in its own right. As per the County Development Plan the site is within an area classified as Rural General which is considered to be the least sensitive landscape, and which has the ability to absorb a moderate amount of development without significantly altering its character.

The Kerry Rural Design Guide: Building a House in Rural Kerry, to which regard must be had as per objective RS-2, places an emphasis on the importance of design within the landscape and of siting of development to minimise visual intrusion.

These principles are reiterated in section 12.3.1 of the development plan which states that it is important that development in such areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development.

The site subject of the application constitutes what appears to be the most elevated position within the applicant's father's landholding, a copy of which accompanies the grounds of appeal. I note that the said holding has significant road frontage with the family home and farm buildings on lower ground to the south accessed from the same local road. The prominence of the site is somewhat accentuated by reason of the relatively flat topography of the general area.

As to why this site was chosen over other locations within the landholding is not entirely clear. The applicant in the grounds of appeal states that he wishes to live on the land but does not want to be in close proximity to the farm buildings or the house occupied by his parents. It is also stated that the lands in closer proximity to the farm sheds are prone to flooding although no evidence to support this assertion has been submitted. The site characteristics and ground conditions as noted on site would not appear to corroborate this view.

Profile poles were on site on day of inspection. Notwithstanding the proposals to reduce the height of the dwelling further as set out in the grounds of appeal, I submit that the dwelling would be visually prominent from the local roads especially to the south. In my opinion this would be accentuated by the house design in terms of its massing, the horizontal emphasis in the fenestration to the southern elevation (most likely to capitalise on the views available to the south) and the absence of any natural screening. Also I do not consider that the dwelling would read as a cluster with the existing traditional farm house and associated farm buildings to the north-east.

On the basis of the information on file I am not satisfied that there are no other alternative, suitable sites at a lower elevation in proximity to existing buildings within the family holding which could accommodate the proposed development and which would have a lesser impact on the rural landscape. I therefore concur with the planning authority's reason for refusal in this regard.



### **7.3. Other Issues**

The proposed site access is located at a bend on a minor local road noted to be lightly trafficked on day of inspection. Adequate sight lines in both directions can be attained.

A distance of over 100 metres is to be maintained to the nearest dwelling to the north-west and, as such, no issues of overlooking or loss of privacy would arise.

From the details provided on the completed site characterisation form and from ground conditions as evidenced on day of inspection the site is suitable for disposal of effluent by way of septic tank and percolation area.

I draw the Board's attention to the fact that the Local Authority Planner's Report on this case includes a formal EIA Screening. In my view such a screening exercise (formal EIA determination) is not warranted for a proposed development of such minor significance and has no legal basis. The proposal for a dwelling, as described, on a site of 0.3 hectares in a rural area, is not a class of development for EIA and, therefore, cannot constitute sub-threshold development.

### **7.4. Appropriate Assessment**

The site is approx. 3 km to the west of The Tralee Bay Complex SPA (site code 004188) and Akeragh, Banna and Barrow Harbour SAC (site code 000332). Having regard to the nature and scale of the proposed development, the distance from the said designated 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**

I recommend that permission for the above described development be refused for the following reasons and considerations.

## 9.0 Reasons and Considerations

The site of the proposed development is located within a 'Stronger Rural Area' as set out in the current Kerry County Development Plan, where emphasis is placed on the importance of integration into the landscape and of siting of development to minimise visual intrusion as set out in the current Building a House in Rural Kerry – Design Guidelines and in development plan objectives RS-2 and RS-4. These guidelines and objectives are considered reasonable. Having regard to the elevated and prominent positioning of the proposed development it is considered that the proposed development would form an obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity. The proposed development would, therefore, materially contravene the said development plan objectives and would be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**August, 2018**