



An
Bord
Pleanála

Inspector's Report 302296-18.

Development	Construction of a house, entrance, waste water treatment works and all associated site works.
Location	Finure, Whitegate, County Cork
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	184036.
Applicant	Ronan O'Sullivan.
Type of Application	Permission.
Planning Authority Decision	Refusal of permission.
Type of Appeal	Third Party.
Appellant	Ronan O'Sullivan.
Observer(s)	None.
Date of Site Inspection	29 th November 2018.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The proposed site is located to the west and in proximity to the coastal village of Gyleen/Guileen a village located along the coast approximately 3 kilometres southeast of Whitegate in the east of County Cork. The site does not have direct road frontage and is connected to the public road network via a narrow strip of land running westwards from the southwestern corner of the site. There is also another strip of land running from the southeastern corner of the site to the rear of a dwelling and which forms part of a row of dwellings, and which is indicated as lands which are part of the overall holding.
- 1.2. The site itself although in proximity to the village is not readily accessible by road from the village. A coastal path runs from the village westwards from the village to the road from which the site can be accessed.
- 1.3. The site has a stated area of 1.25 hectares.

2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority on the 22nd of January 2018 was for a dwelling house, entrance, waste water treatment works and all other associated site works.
- 2.2. The proposed dwelling is a single storied dwelling of modern design and construction incorporating some aspects of traditional proportions with an overall height of 5394mm to roof ridge with a stated floor area of 105.43m². The southern elevation indicates future solar panels on the southern elevation.
- 2.3. The proposed dwelling is located within the western area of the site and the proposed wastewater treatment unit and associated percolation area is in the eastern area of the site. Surface water is discharged to a soakaway via an attenuation tank located in the southwestern corner of the site. The proposed access to the site is located at the southwestern corner of the site. It is proposed to connect to the public watermains system.
- 2.4. Site suitability and characterisation tests in relation to foul drainage disposal was submitted.

- 2.5. A supplementary planning application form in relation connection to the area was also submitted on the 6th of February 2018.
- 2.6. Further information was submitted on the 20th of July 2018 which included;
- Clarification in relation to connection to the area.
 - Revised drawings including revisions to the front elevation.
 - Clarification in relation to ownership of the access to the site.
 - Details in relation to sightline visibility.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to refuse planning permission. One reason was stated which refers to the site's location within a Rural Area Under Strong Urban Influence as designated in the current Cork County Development Plan 2014. Reference is made to objective RCI 4-2 of the plan and the need to demonstrate a genuine rural generated housing need and that this need is not demonstrated and that the proposal would conflict with the settlement policy RCI 4-2 as stated.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 15th of March 2018 refers to

- The planning history.
- Policy context both in relation to the county plan and the East Cork Municipal District Local Area Plan.
- Submissions received.
- An assessment of the issues including principle of the development and policy and it is considered that the development be considered in the context of policy RCI 4-2;

- The issue of design and layout and the issue of visually prominence is referred to and the need for further information to assess potential visual impact.
- Traffic and the issues of sightline visibility and surface water on the road network.

Further information was recommended.

The planning report the 19th of July 2018 addresses the further information submitted and indicates that the applicant does not meet the requirements as stated in RCI 4-2 in relation rural housing need; issues arise in relation the family holding as outlined; the information submitted does not address matters to assess visual prominence, the revised elevational submission is acceptable and the revised road details are acceptable. Refusal of permission was recommended notwithstanding outstanding matters relating to ownership and visual impact not been addressed.

3.2.2. Other Technical Reports:

Area Engineer Report dated 13th of March 2018 required clarification in relation to the access and the junction of the access lane and public road. A further report dated the 13th of July 2018 indicates no objections.

3.2.3. Other submissions

A third party submission was received referring to a number of issues including visual impact, rights of way in the area and protecting the character of villages.

Irish water in a submission dated the 13th of February 2018 indicate no objection to the proposed development.

4.0 Planning History

There is history of applications relating to the site and immediate area.

P.A. Ref. No.05/3838

Permission granted for the demolition of a derelict structure and the construction of two dwelling houses on the appeal site.

Permission was granted for a dwelling on the adjoining lands to west for a dwelling under P.A. Ref. No 13/5355.

5.0 Policy Context

5.1. National Policy.

5.2. Guidelines on Sustainable Rural Housing 2005.

- 5.2.1. The guidelines refer to the need for a development plan approach and to having similar defined the rural area types as set out in the NSS within the development plan. The guidelines also indicate that planning authorities must then tailor policies that respond to the different housing requirements of both urban and rural communities and the varying characteristics of rural areas.
- 5.2.2. The site is located in a rural area and in the context of the Guidelines section 3.2 would be in an area would be defined as a rural area under strong urban influence.
- 5.2.3. The Guidelines differentiate between rural and urban-generated housing. The guidelines refer to rural generated housing; to sustaining and renewing rural communities; to accommodating people of a rural area in their area of origin and in section 2.4 to tailoring policies to local circumstances.
- 5.2.4. Section 3.2.3 refers to rural generated housing and there is reference to “persons who are an intrinsic part of the rural community” and also reference in this regard to “members of an established rural community, and persons who wish to return to reside near other family members or to care for elderly family members”. There is in addition reference to working in rural areas including full and part time farming.
- 5.2.5. The guidelines indicate, however, that having defined rural generated housing needs, the development plan should make very clear that subject to satisfying normal considerations the planning authority will look favourably upon an applicant’s proposal for an individual house in a rural area where that applicant comes within the development plan definition of need. Chapter 4 outlines the criteria to be assessed in determining applications in rural areas.
- 5.2.6. In summary, the Guidelines provide that people who are part of the rural community should be facilitated by the planning system in all rural areas and to take a positive approach to applications from such persons in the areas referred to, in circumstances where permission might otherwise be refused.

5.3. Environment Protection Agency.

- 5.3.1. The EPA publications Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) 2009 and its subsequent clarifications.
- 5.3.2. The Code of Practice outlines the importance of proper site assessment methodology, the identification of the minimum environmental protection requirements, the need for design of on-site wastewater disposal systems specific to the local conditions and the need for installation, commissioning and maintenance as per design and attendant recommendations/conditions.

5.4. **Development Plan**

5.4.1. **Cork County Development Plan 2014.**

The site is defined as a Rural Area Under Strong Urban Influence in the current Cork County Development Plan 2014.

Chapter 4 of the plan relates to Rural, Coastal and Islands and outlines policy in relation to these areas and policies for considering development distinguishing between rural generated development and urban generated rural development mirroring national guidance.

Objective RCI 2-2 refers to Rural Generated Housing with the objective *Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community.*

RCI 4-2 and Town Greenbelts (GB 1-1) refers specifically to areas under strong urban influence and sets out requirements in relation to considering residential development in rural areas. Five categories are outlined where applicants 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 that 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 full-time basis, who wish to build a first home on the farm for their permanent occupation, where no existing dwelling is available for their own use. The

proposed dwelling must be associated with the working and active management of the farm.

- c) Other persons working full-time in farming, forestry, inland waterway or marine related occupations, for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.
- 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 who 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, who now wish to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire.

Section 4.4 outlines general planning considerations and guidance on the general planning and sustainable development criteria, considered by the planning authority in the assessment of a planning application in rural areas. Relevant objectives include;

- RCI 6-1 which relates to design of dwellings in rural area and also refers to landscaping and screen planting.
- RCI 6-2 refers to adherence to best practice in relation to proprietary treatment systems and to ensure that proposals for development incorporating septic tanks or proprietary treatment systems comply with the EPA Code of Practice: Wastewater Treatment and Disposal Systems serving Single Houses (p.e. < 10) or any requirements as may be amended by future national legislation, guidance, or Codes of Practice.

Specifically, in relation to development in coastal areas objective RCI 9-1 a) encourages that development generally to be located in accordance with the settlement policies of this plan and in particular to recognise the limited capacity of many coastal areas for accommodating development on a large scale.

Chapter 13 refers to Green Infrastructure and Environment and section 13.5 specifically refers to landscape. The site is within a high value landscape as identified in figure 13.2.

Objective GI 6-1 refers to matters of design and to respecting the character, pattern and tradition of existing places, materials and built forms and accommodation into the receiving landscape and that in

- b) Landscape issues will be an important factor in all land use proposals, ensuring that a pro-active view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.

5.4.2. **East Cork Municipal District Local Area Plan 2017.**

The LAP refers to the settlement of Gyleen as “other location”. The site is therefore not zoned for any particular use.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The appellant in a submission dated the 7th of August 2018 refers to;

- There were pre-planning meetings in relation to the site and the SFI form was submitted.
- Reference to where one attends school is irrelevant.
- It is proposed to erect a dwelling in place of a proposed boathouse garage which was granted planning permission. The height of the house is 5.4 metres, is of modest proportions and the boathouse garage would have a height of 4 metres.
- The applicant was advised if he was attached to the area for a period of 7 years he would qualify and that the period did not have to be continuous.
- The ownership of lands is correct.

- There is a genuine housing need and the applicant a need owing to issues of ill health to reside close to his parents.
- The appellant has a connection with the area since 1969 and his grandparents gave the house to his mother in 1999.
- The applicant has been living in the area for over 5 years and has a longer term connection to the area.

7.0 Assessment

- 7.1. The planning authority stated one reason for refusal of the proposed development which refers to the site's location within a Rural Area Under Strong Urban Influence as designated in the current Cork County Development Plan 2014. Reference is made to objective RCI 4-2 of the plan and the need to demonstrate a genuine rural generated housing need and that this need is not demonstrated and that the proposal would conflict with the settlement policy RCI 4-2 as stated.
- 7.2. I propose to address this appeal initially in relation to matters of policy both nationally and local which form the basis of the planning authority's decision and subsequently refer to site specific matters.
- 7.3. Policy.
- 7.3.1. I will initially consider the need for the dwelling in a rural area.
- 7.3.2. The proposed development is to construct a dwelling in a rural area. It is in effect an application for a dwelling on a site where the son of the site owner wishes to construct a dwelling on his parent's site.
- 7.3.3. In section 5 of this report I have outlined relevant provisions in relation to the DoEHLG Guidelines on Sustainable Rural Housing and the current Cork County Development Plan on rural settlement which largely follows the national guidance in relation to rural housing.
- 7.3.4. In this regard policy is governed by the initial consideration of need to reside in a rural area and both the DoEHLG Guidelines and the current development plan distinguish between urban generated and rural generated housing in rural areas. There is reference to establishing need to reside in rural areas. The overall policy as

set out in the current CCDP is, I consider, reasonable in identifying a settlement strategy and hierarchy and identifies a requirement for a structured appraisal of rural housing and that prospective housing in rural areas complies with a series of criteria to establish a rural generated rural need.

- 7.3.5. In the grounds of appeal the applicant has outlined his ties to the area; that there is a genuine housing need and the applicant has a need owing to issues of ill health to reside close to his parents. The appellant has a connection with the area since 1969 and his grandparents gave the house to his mother in 1999 and that the applicant has been living in the area for over 5 years and has a longer term connection to the area.
- 7.3.6. The planning authority do not dispute a family connection to the area but is they consider well short of the required minimum residential history period.
- 7.3.7. The plan in RCI 4.2 outline 5 criteria for considering rural based housing need. Based on an examination the sole criterion which would apply to the appellant is 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”*.
- 7.3.8. Based on the information as submitted I would accept that there is a level of connection to the area, but I do not consider that the appellant has established that an exception based on the criteria as outlined in the plan is warranted based on level and period of living in the area or any employment criteria.
- 7.3.9. I am satisfied that the current applicant/appellant would be not considered to be a member of the rural community as defined in the current CCDP or meets the criteria as set out.
- 7.4. Site specific considerations.
- 7.5. Siting and design
- 7.5.1. In relation to siting and design the proposed dwelling is a single storied dwelling of modern design and construction incorporating some aspects of traditional proportions with an overall height of 5394mm to roof ridge with a stated floor area of 105.43m². The southern elevation initially indicated future solar panels on the

southern elevation. In further information which was submitted on the 20th of July 2018 revised drawings were submitted including revisions to the front elevation.

- 7.5.2. The dwelling is relatively low in profile and overall height. It is, however, located in a relatively open prominent location and exposed compared to its immediate surroundings. The site is visible when approached from the north and on the site itself there are extensive views over the coastal area.
- 7.5.3. The site is removed from the village and the built up cluster of development centred on the pier at Gyleen and the coastal path running westwards from the pier. Although details to assess the visual impact were requested and not fully submitted and I would have concerns in relation to overall visual impact and its separation from the established cluster based on the inspection of the site.
- 7.5.4. I would therefore consider that the development would not comply with the stated objective GI 6-1 (d) of the county plan in relation the protection of skylines and ridgelines from development and would result in an extension of development which is removed from the established cluster of the village.

7.6. Access

- 7.6.1. The site is accessed from what appears to be a recently constructed laneway off a roadway which is a surfaced road which is not a public road. It would appear that the roadway was improved and surfaced recently from the then extent of public road to the coast passing the location where the laneway would access onto the road. I would have no objections to the details submitted in relation to access and traffic.

7.7. Piped services

- 7.7.1. The proposed means of effluent disposal is a packaged secondary waste water treatment unit, polishing filter and associated percolation area located in the eastern area of the site.
- 7.7.2. The applicant has submitted site suitability tests in accordance with the EPA publications Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. 10) 2009 and its subsequent clarifications which outlines site suitability assessment methodology including site character assessment and suitability tests and a range of scenarios depending on results which indicate the

suitability of the receiving ground to comply with the recommendations stated in the code of practice.

7.7.3. The site is I consider of an adequate area and it is also proposed to provide for a receiving media of an adequate percolation quality to treat the loading and effluent anticipated to arise in relation both dwellings on the overall site. The proposal as submitted is, I consider, complies with the EPA Code of Practice and I would have no objections in principle to the proposed method of effluent disposal based on the details as submitted.

7.7.4. Surface water is proposed to be discharged to a soakaway via an attenuation tank located in the southwestern corner of the site It is proposed to connect to the public watermains system.

7.7.5. I would have no objections to the details submitted in relation to surface water and piped water.

7.8. Other issues

Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, 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.

EIAR Screening Determination

Based on a preliminary examination of the nature, size or location of the development there is no real likelihood of significant effects on the environment and EIA is not required.

Ownership

The issue of ownership in relation to the access and the site was raised in the course of the application and the applicant submitted details in relation to this. There is nothing to determine that the applicant has insufficient title to carry out the development and if there is an issue in this regard the grant of planning permission in itself does not confer sole and total rights to proceed with the development.

8.0 Recommendation

- 8.1. Based on the above assessment I recommend that permission be refused for the development.

9.0 Reasons and Considerations

1. Having regard to the location of the site within "Area Under Strong Urban Influence" as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current Cork County Development Plan and in particular the provisions as stated in objective RCI 4.2, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location.

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

2. The site of the proposed development is located in an open and exposed coastal area designated as high value landscape as identified in figure 13.2 in the current Development Plan for the area. The proposed development is also physically removed from the built up cluster of development of the village of Gyleen.

It is an objective as indicated in objective GI 6-1 of the current county development plan which refers to matters of design and accommodation of development into the receiving landscape and as particularly expressed in GI 6-1 d) to protect skylines and ridgelines from development. This objective is considered reasonable. The proposed development would be visually obtrusive and visually detract from the scenic and visual quality of the area

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

Derek Daly
Planning Inspector

12th December 2018