



An  
Bord  
Pleanála

## Inspector's Report ABP-302503-18

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| <b>Development</b>                  | Two houses                                       |
| <b>Location</b>                     | Garrylucas, Garretstown, Kinsale,<br>County Cork |
| <b>Planning Authority</b>           | Cork County Council                              |
| <b>Planning Authority Reg. Ref.</b> | 17/07219   |
| <b>Applicant(s)</b>                 | Sean O'Callaghan                                 |
| <b>Type of Application</b>          | Permission                                       |
| <b>Planning Authority Decision</b>  | Grant  |
| <b>Type of Appeal</b>               | Third Party                                      |
| <b>Appellant(s)</b>                 | Kate McNamara & Claire Adams                     |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 21 <sup>st</sup> November, 2018                  |
| <b>Inspector</b>                    | Kevin Moore                                      |

## **1.0 Site Location and Description**

1.1. The proposed 0.5 hectare site is located within the townland of Garrylucas at Garrettstown, approximately 13km south-west of the town of Kinsale in County Cork and close to the shoreline at White Strand. The site is rectilinear in form and slopes in a west to east direction. There is a derelict house and outbuilding located in the south-east corner. The site is accessed from a laneway from Regional Road No. R604 which is located approximately 100m to the south-west. The site lies immediately south of an existing caravan park and is a short distance to the north-east of an existing detached house. It is adjacent to the western edge of Garrylucas Marsh proposed Natural Heritage Area (pNHA).

## **2.0 Proposed Development**

- 2.1. The original proposed development comprised the construction of two detached, four bedroom, two-storey houses, each with a floor area of approximately 200 sq.m. Their design was altered by way of further information during the planning application process in accordance with details set out below. The houses would be served by mains water supply and by individual private waste water treatment units with associated sand polishing filters.
- 2.2. Details submitted with the application included site suitability assessment reports and an ecological assessment.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 13<sup>th</sup> August, 2018, Cork County Council decided to grant permission for the proposed development subject to 16 conditions.

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

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

The Planner noted development plan provisions, reports received, and objections made. It was considered that the house types were inappropriate in design and scale at the coastal location. A request for further information was recommended, seeking revised house designs, revised waste water treatment provisions, and details on surface water drainage.

### 3.2.2. Other Technical Reports

The Area Engineer requested surface water drainage details and considered the use of soil polishing filters to be a more sustainable solution for the proposed waste water treatment systems. The issue of impact on bathing waters and on the Blue Flag status was referenced and it was submitted that there is a preference to see no further development within the settlement boundary of Garrettstown/Garrylucas such that pressures would be brought to bear on authorities to provide community waste water treatment facilities.

The Archaeologist requested the attachment of conditions relating to surveying and monitoring the impact on potential archaeology within the site.

### 3.3. **Prescribed Bodies**

Irish Water had no objection to the proposal.

### 3.4. **Third Party Observations**

Third party submissions were received from Michael Dennehy, Sheila Lyons, Kate MacNamara, Claire Adams, and Don Hurley. The principal planning concerns are set out in the appeal submission.

3.5 Further information was requested from the applicant on 8<sup>th</sup> February, 2018 and a response was received by the planning authority on 17<sup>th</sup> July, 2018. This included revised dwelling designs for two detached, three bedroom, single-storey houses, proposed use of soil polishing filters, and soakaway details.

3.6 Following the receipt of this information, the reports to the planning authority were as follows:

The Area Engineer set out conditions that would apply to any grant of planning permission.

The Planner considered the revised house designs to be suitable and noted the Area Engineer's report. A grant of permission subject to conditions was recommended.

### **3.5 Further Submissions**

The Department of Culture, Heritage and the Gaeltacht asked the Board, in the event of a grant of planning permission, that Conditions 2 and 3 attached to the planning authority's decision be retained.

## **4.0 Planning History**

### P.A. Ref. 16/4019

Permission was refused by the planning authority for two houses and waste water treatment units for two reasons relating to pollution concerns arising from the intensity of waste water treatment systems and the impact on the integrity of the Garrylucas Marsh pNHA.

### P.A. Ref 07/5067

Permission was refused by the planning authority for three houses for four reasons relating to prematurity by reference to the deficiency in public water supply and sewerage facilities, excessive concentration of septic tanks, over-development of the site, and impact on amenity.

## **5.0 Policy Context**

### **5.1. Cork County Development Plan 2014**

#### Village Nuclei

Garretstown/Garrylucas is one of several designated 'Village Nuclei' in the county. It is a strategic aim to preserve the rural character of village nuclei and encourage small scale expansion at a scale, layout and design that reflects the character of each village, where water services and waste water infrastructure is available

generally through low density individual housing, in tandem with the provision of services.

## Natural Heritage

### *Objective HE 2-1: Site Designated for Nature Conservation*

Provide protection to all natural heritage sites designated or proposed for designation under National and European legislation and International Agreements, and to maintain or develop linkages between these. This includes Special Areas of Conservation, Special Protection Areas, Natural Heritage Areas, Statutory Nature Reserves, Refuges for Fauna and Ramsar Sites.

The Plan further states:

In order to fulfil obligations outlined with regard to Special Areas of Conservation, Candidate Special Areas of Conservation, Special Protection Areas, Natural Heritage Areas and proposed Natural Heritage Areas the Council will continue to:

- Carry out an appropriate level of assessment for all development plans, landuse plans and projects it authorizes or proposes to undertake and adopt, to determine the potential for these to impact on designated or proposed designated sites in accordance with the Habitats Directive;
- Consider to give consent to development within or likely to affect European Sites, only in accordance with the Habitats Directive;
- Consider development within or with the potential to affect Natural Heritage Areas or proposed Natural Heritage Areas, only where it is shown that such development, activities or works will not have significant negative impacts on such sites or features, or in circumstances where impacts can be appropriately mitigated.

## **5.2. Bandon Kinsale Municipal District Local Area Plan 2017**

The site lies within the designated village nucleus of Garrettstown/Garrylucas. The vision for this location is to support its development as a multi-use water sports area, improve public amenity and recreation facilities, protect the unique natural heritage,

ecology and High Value landscape of the coastal settlement and to allow for small-scale development which would not injure the sensitive landscape and ecological environment.

Development Boundary Objectives include:

DB-01 – Within the development boundary encourage the development of up to 20 additional dwelling units during the plan period.

### 5.3. **Natural Heritage Designations**

Garrylucas Marsh to the south of the site is a proposed Natural Heritage Area.

## 6.0 **The Appeal**

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

The grounds of the appeal may be synthesised as follows:

- A previous application on the site by the applicant was refused on the basis of over-proliferation of septic tanks in the area. The development poses a threat to a sensitive environment. Both reasons for refusal in P.A. Ref. 16/4019 remain valid. The proposal is, thus, in direct contravention with policies and objectives set out in the Cork County Development Plan and the Local Area Plan for Bandon and Kinsale.
- The application is not compliant with planning and development regulations. The applicant has been misleading on his property ownership in the area. The site is for sale and its development will do little to serve the local community. There is no public waste water treatment available and development is premature. The development is in front of Mannings Holiday Park and will impact on amenity.

### 6.2. **Applicant Response**

The applicant's response to the appeal may be synthesised as follows:

- A hydrogeological assessment of the site was undertaken, the site complies with all of the requirements of the EPA Code of Practice, and is suitable for a

range of treatment systems. Advanced treatment systems are proposed and represent the optimum solution for the development. An ecology assessment was carried out and the development will give rise to no significant impacts on designated sites, habitats, flora or fauna. A range of mitigation and best practice measures are proposed.

- The development complies with the aims and objectives of the County Development Plan.

### **6.3. Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

## **7.0 Assessment**

- 7.1. There are a number of significant planning issues of relevance to the consideration of the proposed development. These primarily relate to how the proposed development complies with development plan provisions, the impact of the development on the ecology of the area, and the impact of the development on the amenities of properties in the vicinity.

- 7.2. Garrettstown/Garrylucas is one of many designated 'Village Nuclei' in County Cork. Under the Cork County Development Plan, it is a strategic aim to preserve the rural character of village nuclei and encourage small scale expansion at a scale, layout and design that reflects the character of each village, where water services and waste water infrastructure is available generally through low density individual housing. In accordance with the Bandon Kinsale Municipal District Local Area Plan 2017, the vision for this village nucleus is to support its development as a multi-use water sports area, improve public amenity and recreation facilities, protect the unique natural heritage, ecology and high value landscape of the coastal settlement and to allow for small-scale development which would not injure the sensitive landscape and ecological environment. I recognise that this Plan has an objective to accommodate up to 20 residential units over the life of that Plan (Objective DB-01).
- 7.3. Notwithstanding the objective to accommodate more housing at this location, it is very clear that this village nucleus has a primary function as an amenity area and as a multi-use water sports area. I also note that the adjoining beach has 'Blue Flag' status. The sensitivity of the site for the proposed development is also compounded by Garrylucas Marsh pNHA being located immediately adjoining this site. Having regard to the sensitivity of this location, I find it very difficult to reconcile the strategic aim at the County Plan level, to encourage small scale expansion where waste water infrastructure is available, with an objective in the Local Area Plan that seeks to encourage up to 20 additional dwelling units in this village nucleus that is without waste water infrastructure.
- 7.4. In support of the above, I note the planning history associated with this site and I also acknowledge the Area Engineer's considerations on the proposed development. Planning permission has been refused for housing on this site twice previously under P.A. Ref. 07/5067 and P.A. Ref. 16/4019 for reasons that included pollution concerns arising from waste water treatment systems, the impact on the Garrylucas Marsh pNHA, and prematurity by reference to the deficiency in sewerage facilities. The material impacts that would arise from the development of this land for housing at this time have not altered. The Area Engineer notes that the development pressures in this location centre around waste water disposal because bathing water pollution is the primary yard stick for the award of Blue Flag status. He states that he "*would*



*prefer to see no further development within the settlement boundary such that pressures would be brought to bear on the Authorities to provide the community wastewater treatment facilities that are badly needed.*" It is evident that the sensitivity of this location cannot be ignored and, in my opinion, the considerations of the Area Engineer are prudent. One cannot conclude that the proposed development constitutes an adequately serviceable development in a village nucleus, which is required under the County Development Plan, nor is it one that would improve public amenity or protect the unique natural heritage and ecology of this coastal settlement, in accordance with vision for Garrettstown/Garrylucas as set out in the Bandon Kinsale Municipal District Local Area Plan.

- 7.5 I wish once again to acknowledge the particularly sensitive siting of the proposed development relative to the Garrylucas Marsh pNHA. The proposed development would immediately adjoin this important ecological area. The marsh is of significance for wildlife and habitat and the habitat by its nature would be particularly susceptible to pollution arising from the disposal of effluent. While I note the extent of existing development in the immediate vicinity of this site, primarily in the form of mobile home/caravan park development, one cannot ignore the adverse impact of a greater intensity of effluent treatment units at this sensitive location that abuts the marsh. I note that Objective HE 2-1 of the County Development Plan seeks to provide protection to all natural heritage sites designated or proposed for designation under National and European legislation. The Plan provisions also state that, in order to fulfil obligations outlined with regard to proposed Natural Heritage Areas, the Council will continue to consider development within or with the potential to affect proposed Natural Heritage Areas, only where it is shown that such development, activities or works will not have significant negative impacts on such sites or features, or in circumstances where impacts can be appropriately mitigated. It is my submission to the Board that, in the absence of public waste water infrastructure at this location, the proposal does not sit well with the Plan provisions and, indeed, poses a pollution threat to the adjoining pNHA by the disposal of final effluent to soils on this site.
- 7.6 Having considered all of the above, I must reasonably conclude that the proposed development would be premature pending the provision of waste water infrastructure to serve this area.

7.7 Finally, with reference to impact of the proposed development on the amenities of properties in the vicinity, I consider that the development of houses on the site would likely lead to a significant change in outlook for occupiers of the mobile homes adjoining the new houses. The new structures themselves and the functioning of the buildings as lived-in units, together with likely ancillary structures, boundary treatment and landscaping, would affect the established amenities enjoyed at present. However, the site clearly lies within the development envelope for the village nucleus and, if appropriately serviced, would have to be considered suitable for such development where privacy can be maintained and mitigation on other potential adverse impacts is provided.

Note 1: Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development such that there would be a need for environmental impact assessment.

Note 2: It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any currently designated European Site distant from this site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## 8.0 Recommendation

8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

## 9.0 Reasons and Considerations

1. The site of the proposed development is located within the settlement boundary of Garrettstown/Garrylucas, a designated village nucleus in the Bandon Kinsale Municipal Local Area Plan 2017. It is the strategic aim of the Cork County Development Plan 2014 to preserve the rural character of village nuclei and encourage small scale expansion at a scale, layout and design that reflects the character of each village, where water services and waste water infrastructure is available, generally through low density individual housing. It is considered that the proposed development, by reference to the existing deficiency in the provision of sewerage facilities serving the area, would conflict with the strategic aim of the County Development Plan and would be premature by reference to the period within which the constraint involved may reasonably be expected to cease.
2. Having regard to the siting of the proposed development adjoining Garrylucas Marsh proposed Natural Heritage, the close proximity of the site to Garrylucas beach which has 'Blue Flag' status, and, taken in conjunction with existing development in the vicinity, it is considered that the proposed development would result in an excessive density of development served by private effluent treatment systems in the area and would, therefore, be prejudicial to public health.

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Kevin Moore  
Senior Planning Inspector

3<sup>rd</sup> December, 2018