



An  
Bord  
Pleanála

## Inspector's Report ABP-302679-18

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<b>Development</b>	Dwelling and sewerage treatment system
<b>Location</b>	Clonleigh, Kinsale, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/5724
<b>Applicant(s)</b>	Maura Hynes
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Maura Hynes
<b>Date of Site Inspection</b>	20 <sup>th</sup> November, 2018
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

1.1. The 0.269 hectare site is located in the rural townland of Clonleigh, approximately 5km south-east of the town of Kinsale in County Cork. The site is part of a larger field in agricultural use and it has frontage onto a local road. There is an existing agricultural building in the front section of the site. The land is flanked by detached houses and development in the vicinity comprises detached housing and farm buildings.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises a single-storey dwelling of a design stated to be inspired by medieval ringforts. It would be served by a private well and packaged waste water treatment system with a pumped feed to a soil polishing filter.
- 2.2. Details submitted with the application included a cover letter explaining the applicant's housing need, connection to the area, and the planning history, as well as a site suitability assessment for waste water treatment.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 11<sup>th</sup> September, 2018, Cork County Council decided to refuse permission for the proposed development for one reason relating to the lack of rural generated housing need.

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

#### **3.2.1. Planning Report**

The Planner noted the proposal was a repeat application that was previously refused under Ref. 17/5049. It was considered that, with the exception of a previous proposal for an animal vet physio clinic, there are no notable changes since the last application. It was noted that the site is within an 'area of strong urban influence' and within a high value landscape. It was concluded that the applicant cannot meet

housing eligibility criteria in accordance with development plan objective RCI 4-2 and a refusal of permission was recommended.

### 3.2.2. Other Technical Reports

The Archaeologist had no objection to the proposed development.

## 4.0 Planning History

### P.A. Ref. 17/5049

Permission was refused for the demolition of a shed and construction of a house, stable and vet physio treatment room for three reasons relating to lack of rural generated housing need, the nature of the proposed business venture, and adverse impact on third party amenities.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2014

The proposed site is located within a designated 'Area under Strong Urban Influence'.

Rural housing objectives include:

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

The rural areas of the Greater Cork Area (outside Metropolitan Cork) and the Town Greenbelt areas are under significant urban pressure for rural housing. Therefore, 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 fulltime 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 fulltime 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.

#### **RCI 4-8: Exceptional Health Circumstances**

Facilitate the housing needs of persons who are considered to have exceptional health circumstances that require them to live in a particular environment or close to family support in the rural area. The application for a rural dwelling must be supported by relevant documentation from a registered medical practitioner and a qualified representative of an organisation which represents or supports persons with a medical condition or a disability.

This objective applies to all rural housing policy area types.

## **6.0 The Appeal**

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

The grounds of the appeal may be summarised as follows:

- Objective RCI 4-2 of the County Development Plan is too crude a measure to differentiate between applicants with a genuine housing need and connection to an area from those with less obvious claims.

- The appellant has a physiotherapist practice in the Kinsale area and has rented five different properties in Kinsale.
- She is unable to afford to buy a property appropriate to her housing needs and long-term rental properties are particularly rare and expensive.
- The proposed site is suitable and is only a 15 minute walk from where the appellant has lived for the last decade.
- It is submitted that the appellant and her family have a long-standing and genuine commitment to the area and that securing permission for the house would mean a minimum of upheaval for her children.
- The appellant presents details of economic and social links to the area, with reference to residential connectivity, her children's attendance at local schools, her employment commitments in the local area, membership of local clubs and involvement in local projects.
- With reference to Category d) of Objective RCI 4-2 of the County Development Plan, the Board is asked to consider the appellant's occupancy of a dwelling for seven years that straddled the settlement boundary of Kinsale and her family's occupancy of the current property in which they live, which is within a rural area.
- The appellant's father needs permanent daily care and needs to move from Kanturk to Kinsale to live with her so that primary care can be provided. A letter from the GP of the appellant's father is attached. Objective RCI 4-8 of the County Development Plan is considered applicable in this instance.
- The appellant concludes by submitting that she and her family can be differentiated from urban generated housing applicants in the area because:
  - They have a genuine need having rented for 13 years in Kinsale and its environs;
  - They have a genuine social and economic connection to the area;
  - They have previously rented a property that straddled the urban/rural boundary for a seven year period;
  - They are returned emigrants; and

- They have a pressing exceptional health circumstance.

## 6.2. Planning Authority Response

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

## 7.0 Assessment

- 7.1. The proposed development would be located in a rural area remote from the town of Kinsale, approximately 5km south-east of the town. This is an area of high amenity value that is subject to significant development pressure from one-off houses. It is a designated 'Area under Strong Urban Influence' that continues to undergo significant development change as modern housing encroaches. In order to protect the quality of this environment, there is a basic requirement to demonstrate need to develop a house in such a location and Objective RCI 4-2 of the Cork County Development Plan sets out the eligibility criteria needing to be met by a prospective applicant within an Area under Strong Urban Influence.
- 7.2 The appellant is a returning emigrant who is originally from Kanturk in County Cork. Kanturk is approximately 79km north of Kinsale and, thus, the appellant could not be viewed as being a native of this area. Having regard to the eligibility criteria of Objective RCI 4-2, it is apparent that the appellant is not a farmer of land at this location, is not taking over the running of a farm at this location, and does not work fulltime in farming, forestry, inland waterway or marine-related occupations. Furthermore, she is not a returning emigrant to her home location, which is in Kanturk.
- 7.3 The appellant submits that she meets with eligibility criterion d) of the Objective, namely a person who has spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which she proposes to build a first home for her permanent occupation. The appellant has provided details showing that she and her family have resided in five different properties in the Kinsale area since 2005. It would appear from these details that all but one previous place of residence was within the Kinsale settlement boundary. The one exception is the present rental property since 2017. It is my submission to the Board that the appellant has no demonstrated rural-generated housing need to be accommodated at this location. It

is very clear that she does not comply with any of the eligibility criteria set out in Objective RCI 4-2 of the County Development Plan.

- 7.4 With regard to the applicability of Objective RCI 4-8 of the Development Plan and the appellant's father's needs, it is again evident that the appellant's father is not a native of this area and there can be no reasonable justification that would warrant a grant of planning permission in this instance on the grounds of exceptional health circumstances.
- 7.5 Having regard to the above, it is apparent that, as well as being contrary to the Development Plan provisions, the appellant's proposal would run contrary to the *Sustainable Rural Housing Guidelines for Planning Authorities*, with the appellant having no genuine rural housing need within an area of the county under significant development pressure for one-off housing, i.e. an Area under Strong Urban Influence.
- 7.6 Further to the above guidance, I note national planning policy as set out under the *National Planning Framework* published in February, 2018. This includes the following:
- With reference to the development of rural areas, National Policy Objective 15 seeks to support the sustainable development of rural areas by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.
  - National Policy Objective 19 seeks to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. In rural areas under urban influence, it is policy to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

7.7 From the details in the appeal file, it is very clear that the appellant does not have any justification that would merit permitting the development of a house on this site. The National Planning Framework objective of managing the growth of areas that are under strong urban influence to avoid over-development would essentially be contravened. The proposal would, thus, be in conflict with the National Planning Framework.

7.8 In permitting development such as that proposed, it is apparent that one would be facilitating the further development of suburban sprawl in an unserved rural area of high landscape value. This would undermine the preservation of the amenities of this area and would militate against the efficient provision of public services and infrastructure within the wider community.

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 designated European 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 reason and considerations.



## 9.0 Reasons and Considerations

Having regard to the location of the site within an Area Under Strong Urban Influence as designated in the Cork County Development Plan 2014-2020 and to National Policy Objectives of the National Planning Framework (February 2018), which seek to manage the growth of areas that are under strong urban influence to avoid over-development and to ensure that the provision of single housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the County Development Plan for a house at this sensitive rural location and does not comply with National Policy Objectives. 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, thus, contravene the objectives of the Cork County Development Plan, would be contrary to the rural policy provisions of the National Planning Framework, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore  
Senior Planning Inspector

13<sup>th</sup> December, 2018