



An
Bord
Pleanála

Inspector's Report 302799-18

Development	Construction of dwelling house and domestic garage, new entrance and proprietary treatment unit with polishing filter
Location	Coolnaconarty, Rossmore, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	1800465
Applicant(s)	Patrick & Claire Burke
Type of Application	Planning permission
Planning Authority Decision	Grant permission s.t. conditions
Type of Appeal	Third party
Appellant(s)	Brendan & Pauline McCarthy
Observer(s)	None
Date of Site Inspection	17 th December 2018
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located in the townland of Coolnaconarty, which is located to the northwest of Clonakilty (c.9km), to the west of Rossmore (approx. 1.5km), and c. 2km to the south of the village of Ballingurteen. The site is located to the northeast of the R599, which links Clonakilty with Dunmanway to the northwest. Access to the site is gained from the L86131, which is a local road that branches off the R599 approx. 450m to the southwest of the site. This road is very narrow in parts and is poorly surfaced. There are a number of dwellings located on the road, with approx. three close to the junction with the R599 and two close to the site. The appellants' property is located adjacent to the site to the northwest (c.30m) and the other adjacent dwelling is on the opposite side of the road. The applicant's family home is located c.270m further to the north.
- 1.2.** The appeal site is situated on the western side of the local road at the junction of the driveway leading to the appellants' property. The northern boundary is defined by this driveway which is lined with a hedgerow and trees. The eastern (roadside) boundary is defined by a sod and stone fence with trees and shrubs and there is a further sod and stone fence along the western boundary. The site area is given as 0.32ha. The site forms part of a larger field and has an irregular shape. It is generally fairly flat but levels gently undulate within the site.

2.0 Proposed Development

- 2.1.** It is proposed to construct a new two-storey dwelling, (224m²) and domestic garage (34.2m²), new entrance and a post and rail fence along the southern boundary with the remainder of the field. The existing sod and stone fences and mature trees will be retained along the northern, eastern and western boundaries save for the proposed entrance. A proprietary treatment unit with a 90sq.m polishing filter is also proposed, together with all associated and ancillary works. The proposed treatment unit and percolation are would be located to the south-east of the dwelling house. Water supply would be from a bored well at the northern extremity of the site.
- 2.2.** The proposed development will be accessed by means of a new entrance at the south-eastern corner of the site. It is proposed to provide 70m sightlines at the proposed entrance. It is further proposed to create a lay-bym on the local road to

the south and to remove a section of road ditch c. ...m further to the south along the local road.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 19 conditions. These were generally of a standard type and included the following conditions of note:

Condition 2 Occupancy condition

Condition 3 Landscaping including requirement to plant a shelter belt along western boundary with native deciduous trees, 50% of which to be semi-mature

Condition 8 Windows to be hardwood or dark pvc.

Condition 9 Sight distances of 70m to north and south from 2.4m back from road edge and no vegetation with 1m sight triangle.

Condition 10 Area between road edge and roadside boundary to be excavated and filled with broken stone, compacted and binded.

Condition 11 Utility poles to be repositioned behind new boundary at applicant's expense.

Condition 17 Treatment unit and polishing filter to be designed, constructed and maintained in accordance with EPA code of Practice 2009.

Condition 18 Bond of €1,500 for landscaping as per condition 3.

Condition 19 Development contribution of €3503.36 to be paid to P.A.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planner's report (21/09/18) noted that the site is located in the Transitional Rural Area zone and that the site forms part of the applicant's family landholding, with the family home located c. 270m to the north. It was noted that the applicant

complies with the rural area policy RCI-4-5, having been born and brought up in the vicinity of the site.

In response to concerns regarding access and road safety, it is noted that the applicant now proposes to relocate the entrance to the south where better sightlines are available and that the Area Engineer has no objection subject to 70m sightlines being available. It is further noted that the applicant proposes to carry out road improvement works to the local road, which were welcomed.

In general, the proposed development was considered to be acceptable in terms of consolidating the settlement pattern in the area, respecting the amenities of adjoining properties and the rural character of the area. The concerns raised regarding loss of privacy were dismissed as the site is very well screened, the separation distance is more than adequate and the floor level of the proposed house is lower than that of the adjacent house.

Unsolicited additional information was submitted which corrected an error in the original drawings regarding the FFL of the proposed garage.

Other Technical Reports

Area Engineer's Report – (21/09/18) - It was noted that the road serving the site is narrow and winding. However, as it is proposed to widen it at the bend to provide a passing bay and to provide 70m sight distances at the entrance it is considered to be acceptable. It was considered that the proposed wastewater treatment plant and polishing filter would be acceptable, as a new Site Assessment had been carried out and that the proposal is in accordance with the EPA Code of Practice (2009).

3.3. Prescribed Bodies

None.

4.0 Planning History

300014-17 (17/527) – planning permission refused by Board following third party appeal by same appellants against decision to grant permission to same applicants on same site for a dwelling and domestic garage similar to the current proposal. The Inspector's report raised concerns regarding the substandard nature of the local

access road serving the site, which was described as not being capable of accommodating 2-way vehicular movements with few locations for passing vehicles. Concern was also raised regarding the proposal to dispose of wastewater on the site given that waterlogging had been observed during the site inspection. The Board refused permission, generally in accordance with the Inspector's recommendation, for one reason only, which may be summarised as follows:

It was considered that the road onto which access was proposed was seriously substandard in terms of width and alignment and that additional vehicular movements would endanger public safety by reason of a traffic hazard.

The Board concurred with the views of the Inspector in respect of the inadequacy of the site to cater for on-site disposal of effluent, but considered that this would constitute a new issue in the context of the appeal, and did not include this as a second reason for refusal, as recommended by the Inspector.

5.0 Policy Context

5.1. Cork County Development Plan 2017-2023

The site is located in an area designated as Transitional Rural Area.

RCI 4-5 sets out the policy for Transitional Rural Areas, which are rural areas exhibiting characteristics of a weaker economic structure. Applicants must demonstrate that their proposal complies with one of a number of categories of housing need including:

- Farmers, son/daughters who wish to build a first home for their permanent occupation on the family farm.
- Returning emigrant who spent a substantial period of their lives (i.e. over 7 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, to care for elderly immediate family members, to work locally, or to retire.

TM 3-3 – ensure all new vehicular accesses are designed to appropriate standards to ensure the safety of other road users.

RCI 6-1 – Design and Landscaping of New Dwelling Houses in Rural Areas

- (a) Encourage design that respects character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.
- (b) Promote sustainable approaches to design – energy efficient in design, layout and siting.
- (c) Require appropriate landscaping and screen planting with mainly indigenous /local species and groupings.

GI-6-1 Landscape

- (a) Protect the visual and scenic amenities of County Cork’s built and natural environment.
- (b) Landscape issues – important factor in all land-use proposals
- (c) Ensure new development meets high standards of siting and design.
- (d) Protect skylines and ridge lines for development
- (e) Discourage development requiring the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

5.2. West Cork Municipal District Local Area Plan 2017

Ballingurteen and Rossmore are both designated as a Village in the West Cork Municipal District LAP. The site is located approx. 2km to the south of Ballingurteen and approx. 1.5km to the west of Rossmore.

5.3. Natural Heritage Designations (within 15km radius)

Bandon River SAC (002171)

Clonakilty Bay SAC (000091)

Clonakilty Bay SPA (004081)

Kilkeran Lake and Castlefreke Dunes SAC (001061)

Galley Head to Duneen Point SPA (004190)

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appeal was submitted by the occupants of the residential property to the west of the site.

The main points raised may be summarised as follows:

- **Substandard Road** – notwithstanding the proposal to provide a passing bay, the road remains narrow and winding. The substandard nature of the road means that it is unsuitable for additional traffic, including construction traffic, which would be generated by the development.
- **Proposals for treatment and disposal of effluent is unacceptable** – The site had a high water table after testing in dry weather in the summer and a water logging was evident during the winter. Reference is made to the comments of the previous inspector who had suggested that new developments should be located on sites that can provide safe disposal of wastewater, as required by CDP policy. Concern is expressed regarding the performance of the treatment unit in wetter months as water already ponds in the south-east of their garden adjacent to the site.
- **Exceptional circumstances** – The previous inspector had indicated that permission should only be granted in exceptional cases where an essential housing need has been established, and where absolutely no other sites are available within the landholding. No evidence in support of this has been submitted.
- **Loss of privacy** – the proposed development will result in overlooking of their south-easterly garden and straight into their house. The omission of the upstairs window does not adequately address this issue and the difference in floor levels is not accepted as being a solution.

6.2. Planning Authority Response

The P.A. has not responded to the grounds of appeal.

6.3. Response from first party to grounds of appeal

6.3.1. A response was submitted by the applicants' agent on 19th November 2018. The following points were made:

- Existing road adequate - The applicants' agent, along with the Area Engineer (P.A.), fully examined the public road from the proposed entrance to the R599, a distance of 460m. The existing general road width along 90% of the road between ditches is 6-8m, which is plenty adequate for two cars passing.
- Proposed works - There is one narrow section of road and the applicants have full agreement from the landowner to carry out the removal and set back of the ditch at this location to help improve this section of road. The proposed road widening improvements will be carried out by the Council once development contributions are paid by the applicant subject to permission being granted.
- Revisions to scheme compared with 300014-17 - The proposed entrance has been revised and relocated further to the south, the windows on the western gable have been omitted and it is proposed to provide a laurel evergreen hedge to protect screening along the western boundary.
- The only other sites within the landholding are accessed directly from the R599, which is not an option for new entrances where sightlines cannot be met.
- The issues of road safety relating to novice/learner drivers and impact on residential amenities were dismissed.

6.4. Observation from Margaret Murphy O'Mahony TD (22/11/18)

6.4.1. This observation is in support of the applicants. The grounds of appeal are generally disputed and the aspirations of the applicants to build a home on the family farm are promoted. No new issues are raised.

7.0 Assessment

7.1. The issues of compliance with the settlement location policy and impact on the amenities of the adjoining property were addressed in the previous Inspector's report (300014). It was accepted by the Board that the applicant complies with the settlement policy and that there would be no impact on the adjoining residential property in terms of overlooking or loss of privacy. The current proposal omits windows from the western gable, which further mitigates the development in this respect. It is considered that the main issues arising from the appeal are as follows:-

- Road safety and access; and
- Effluent treatment and disposal.

7.2. Road safety and access

7.2.1. The Board's reason for refusal under 300014 was on the basis that the road serving the site is seriously substandard in terms of width and alignment and that additional vehicular movements would give rise to a traffic hazard. This was broadly in line with the Inspector's report, in which it had been noted that there were few passing opportunities, which would be particularly problematic should a vehicle be forced to reverse due to the narrow width and vertical alignment. The Inspector had concluded that the road was seriously substandard and was incapable of accommodating further residential development.

7.2.2. The first party has indicated that the current proposal is improved in that the site entrance has been moved further to the south, where better sightlines are available, that one section of the road (c.150m to the south) would be widened by removing the western ditch at a bend, and that a lay-by would be provided (c. 50m to the south). However, the revised location of the site entrance is almost imperceptible and the sightlines available are still 70m, as previously proposed. Moreover, the former scheme was not refused on the grounds of inadequate sightlines, but on the basis of the substandard nature of the road in terms of width and alignment.

7.2.3. The first party response (19/11/18) referred to one stretch of the road which was considered to be narrow, and submitted that the remainder of the road was more than adequately wide, being 6-8m for 90% of its length between the R599 and the

site. I find this statement difficult to accept. The width between the hedge/ditch on either side of the road may be 6-8m in parts, but I estimate the width of the carriageway of the road to be no more than 3-4m along the full length of the local road. In addition, the road is winding with many bends, some of which are particularly blind. The hedges had recently been trimmed when I inspected that site, and it is likely that during the summer months, the forward visibility along the road could be even more restricted. Furthermore, the horizontal and vertical alignment is very poor along the road and the surfacing is also substandard.

7.2.4. Notwithstanding the requirement to pay a general development contribution, I am not aware of any future plans by the local authority to upgrade this local access road, and there is no guarantee that any of the general contribution would be used for these purposes. It is acknowledged that the applicants have proposed to remove a small section of ditch and to provide a passing bay. However, it is considered that given the length of the road, (450m), which is substandard for most of this length and beyond the site to the north, it is considered that the proposed improvement works would not be sufficient to address the substandard condition of the road.

7.2.5. I would agree with the conclusions of the Board on the previous proposal, that the road is seriously substandard and is incapable of accommodating further residential development. The application should therefore be refused.

7.3. Adequacy of waste water treatment proposals

7.3.1. The proposed development is accompanied by a Site Characterisation form, which is the same form and assessment that was submitted with 300014. The percolation tests were carried out in June 2017, when it was established that the water table on the site was quite high, at 0.95m. The Inspector (300014) had observed water logging on the site in January 2018. I can confirm that I also noted water logging in the south-eastern corner in December 2018. It was on this basis that the Inspector had recommended refusal of the proposal (300014), given that the site was one which appeared to have inherent difficulties in terms of the disposal of effluent and having regard to the guidance in the Rural Housing Guidelines which is to direct development away from such sites. I also note that the Board had agreed with the Inspector but had declined to include it as a reason for refusal given that it would have constituted a new issue in terms of that appeal.

- 7.3.2.** The first party has given consideration to the suggestion in the assessment of the previous case that an alternative site be found within the landholding. However, it is submitted that there are no other sites available, apart from sites which would be directly accessed from the R599. I note from the plans submitted with 300014 that the land holding extends to the north, just beyond the farmhouse/yard (c 270m) and to the south along the local road as far as its junction with the R599, (c. 450m). The farmhouse/yard is accessed from a further local road (L4635) which branches off the R599 and is a much wider, better aligned and surfaced road. The access to the farm is immediately adjacent to Keohane's Concrete plant and is of a reasonable quality. The landholding is also bounded by the L86131 for a considerable distance. Thus it is difficult to accept that there are no other suitable sites within the landholding.
- 7.3.3.** It is considered that the site conditions are unsuitable for disposal and treatment of effluent on site, notwithstanding the proposal to provide a proprietary treatment plant and polishing filter. The high water table, which was established during the summer, (albeit after a day of heavy rainfall), combined with the evidence of water logging observed on two occasions on the site, and the site assessment which had concluded that the site would be unsuitable for a septic tank with either a standard percolation area or a polishing filter, raises serious concerns regarding its suitability for the disposal and treatment of effluent. It is considered that the proposed development should be refused on this basis.

7.4. Environmental Impact Assessment

Having regard to the nature, size and location of the proposed development, 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.

7.5. Appropriate Assessment

There are five European sites within a 15km radius of the site, which are as follows:

Bandon River SAC (002171) which lies approx. 6km to the north-west.

Clonakilty Bay SAC (000091) and Clonakilty Bay SPA (004081) which lie approx. 9km to the south-east.

Galley Head to Duneen Point SPA (004190) which lies approx. 12 km to the south-east.

Kilkeran Lake and Castlefreke Dunes SAC (001061), which lies approx. 11km to the south.

Having regard to the nature and scale of the proposed development, the distances from the said designated sites, no Appropriate Assessment issues arise. It is considered that the proposed development would not 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 construction of a new dwelling on the site for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. It is considered that the road onto which access is proposed is seriously substandard in terms of width, surfacing and alignment and that, notwithstanding the proposals to widen a bend and introduce a lay-by, the additional vehicular traffic and turning movements that would be generated by the proposed development would endanger public safety and would give rise to a traffic hazard. The proposed development, would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the soil conditions and high water table, the Board is not satisfied, on the basis of the submissions made in connection with the planning application, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary waste water treatment system. The proposed development would, therefore, be prejudicial to public health.

Mary Kennelly
Planning Inspector
24th January 2019

