



An  
Bord  
Pleanála

## Inspector's Report ABP 303286-18

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<b>Development</b>	House, effluent treatment system and associated site works
<b>Location</b>	Trabolgan, Whitegate, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/6607
<b>Applicant</b>	Noel May
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	1 <sup>st</sup> Party v. Refusal
<b>Appellant</b>	Noel May
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	01/03/19
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site, which has a stated area of 0.16 hectares, is in the townland of Trabolgan c. 2km to the south-west of Whitegate village in south-east Cork. It is accessed via a local road known as Lighthouse Road which is characterised by one off housing orientated so as to avail of the views over White Bay and Cork Harbour.

The site is roughly rectangular in shape and slopes up from the road. The roadside boundary is delineated by a high hedgerow with boundary walls to the north and south (side boundaries). There are two dwellings to the north of the site and 6 to the south of varying single storey and dormer designs. There is a viewing point and car park on the opposite side of the road.

## 2.0 Proposed Development

The proposal is seeking outline permission for a single storey dwelling served by an effluent treatment system. Water supply is to be from public mains.

The application is accompanied by a Site Characterisation Form. No water was recorded in the trial hole. A T-value of 2 was calculated. An tertiary effluent treatment system is proposed.

As per the supplementary planning application form the applicant resides in Glanmire and works in Little Island. He acquired the site in 2015 with an extant outline permission. Due to personal circumstances it is intended to sell the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse outline permission for one reason which concludes that the applicant has not demonstrated that he comes within the scope of the rural generated housing need criteria for a house in a rural location. The proposal would therefore contravene the provisions of the Development Plan and would be contrary to the Ministerial Guidelines.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planner's report considers that the applicant has not substantiated a local need required in order to qualify for a relaxation of the housing restriction under objective RCI 4-2. There is no option but to refuse permission. The site is a gap site within a ribbon of development on the road. It would not have a detrimental impact on the scenic value of the area or impact on views from the scenic route. A refusal of outline permission recommended. A note from the Senior Planner concurs with the recommendation.

### **3.2.2. Other Technical Reports**

Area Engineer recommends further information on the effluent treatment system.

## **3.3. Prescribed Bodies**

Irish Water has no objection subject to conditions.

## **3.4. Third Party Observations**

None

## **4.0 Planning History**

15/4534 – outline permission granted in July 2015 for a single storey dwelling and wastewater treatment plant on the site. No occupancy clause attached by way of condition.

## **5.0 Policy and Context**

### **5.1. Development Plan**

#### **Cork County Development Plan 2014**

As per Figure 4.1 the site is within an area under strong urban influence.

### ***Objective RCI 4-2 Rural Area Under Strong Urban Influence***

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.

### ***Objective 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.

The site is located in a High Value Landscape and to the east of Scenic Route S51.

## 5.2. **Natural Heritage Designations**

The site is c. 2km to the south of the nearest point of Cork Harbour SPA (site code 004030).

## 5.3. **Environmental Impact Assessment**

Having regard to the nature and scale 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.

## 6.0 **The Appeal**

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

The 1<sup>st</sup> Party appeal, which is accompanied by supporting documentation, can be summarised as follows:

- The planning authority has acted in an inconsistent and unfair manner in the assessment of the current application relative to the previous application and grant of outline permission.
- The previous outline permission was given to the then owner with full knowledge that the land was to be sold to a person who, most likely, would not qualify for a dwelling in an area under strong urban influence. This set a precedent. The permission was granted in the context of the existing development plan.
- The site was bought in good faith with outline permission and no occupancy condition. It was their intention to sell their current dwelling and build on the site. This has not been possible. It was necessary to put the appeal site on the market to raise necessary funds.
- They were not aware that an application for permission had to be lodged within 3 years of the grant of outline permission.

- Their health has deteriorated in the past few years. Their circumstances can be described as extenuating.
- The refusal has materially affected their enjoyment of the land and materially reduces the value of the land.

## 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
- Other Issues

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

The site is within a rural area identified as being under strong urban influence in the current Cork County Development Plan. In view of the site's relative proximity to Midelton and Cork City and its obvious attractiveness for urban generated housing demand this designation is considered to be entirely reasonable. As noted on day of inspection the area is characterised by material levels of one off housing with 6 houses immediately to the south and 2 immediately to the north. The site is effectively the last gap in this ribbon of dwellings availing of views of White Bay and Cork Harbour.

The current County Development Plan is explicit in objective RCI 4-2 that applicants must demonstrate 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 a number of criteria listed. This is effectively endorsed in the National Planning Framework,

published in February 2018. Of particular note 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 whilst sustaining vibrant rural communities. In addition, National Policy Objective 19 seeks to facilitate the provision of single housing in the countryside in areas under urban influence based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the siting and design criteria for rural housing in statutory guidelines and plans and to the viability of smaller towns and rural settlements.

The case made by the appellant is based on the fact that he purchased the site in 2015 with outline permission for a dwelling with no occupancy clause. The intention was to sell his home in Glanmire but it is now necessary to sell the appeal site to fund works to the said dwelling in Glanmire. He was not aware of the time constraints in terms of the need to lodge an application on foot of the outline permission. He submits that the relaxation of the settlement location policy requirements extended to the previous owner on the basis of extenuating circumstances should reasonably apply in his case and that precedent for such an approach has been set.

It is quite clear that the appellant does not meet any of the criteria as set out in objective RCI 4-2 of the current development plan against which a presumption in favour of a dwelling on the site could be considered. He resides and continues to reside in Glanmire and from the details in the supplementary planning application form works in Little Island.

I submit that each application is assessed on its merits in the context of the current development plan provisions which, as noted above, I consider to be reasonable. The assessment and adjudication of the previous outline permission application by the planning authority and consideration of extenuating personal circumstances is not a matter for comment by the Board. Indeed the reasoning for the planning authority's approach is unclear on the basis that the relevant development plan objective does not provide for consideration/relaxation on such grounds.

The development plan also allows for consideration of housing proposals by person 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. Objective

RCI 4-8 refers. Whilst I note the appellant's contention in this regard and the documentation accompanying the appeal from a registered medical practitioner this, in my opinion, does not meet the requirements as set out in the objective. Thus, on the basis of the information on the file it cannot reasonably be concluded that there can be any entitlement bestowed on the appellant for a dwelling on this site based on exceptional health circumstances.

I therefore concur with the planning authority's refusal of outline permission.

## 7.2. Other Issues

### *Effluent Disposal*

The applicant is accompanied by a completed site characterisation form wherein it is noted that a T-value of less than 2 was recorded. In order to address the absence of adequate retention time a tertiary treatment system is proposed.

In view of the site characteristics and the density of development served by effluent treatment systems in the vicinity, I submit that the proposal could be considered to run counter to the recommendations of the Rural Housing Guidelines which states that new development should be guided towards sites where acceptable wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities.

This constitutes a new issue. In view of the substantive issue concerning housing need as set out above I do not propose to recommend refusal on this basis.

### *Siting of Dwelling and Ribbon Development*

The site, although along a designated scenic route, is located to the east of the road and would not impact on views of White Bay and Cork Harbour to the west.

The site is effectively the only undeveloped plot of land along a 280 metre stretch of road along which there are 8 dwellings. In my opinion the proposal would exacerbate and consolidate an already unacceptable pattern of ribbon development which, in itself, would lead to an erosion of the rural and landscape character of this area. However, the Board may be disposed to the view that in the context of the provisions of Section 4.6.7 of the current County Development Plan it could be considered as an infill development.



As above this constitutes a new issue. In view of the substantive issue concerning housing need as set out above I do not propose to recommend refusal on this basis.

#### *Appropriate Assessment*

Having regard to the nature and scale of the development and the distance 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.

### **8.0 Recommendation**

Having regard to the foregoing I recommend that outline permission for the above described development be refused for the following reasons and considerations.

### **9.0 Reasons and Considerations**

The site is located in a “Rural Area under Strong Urban Influence” in the current County Cork Development Plan and in the Sustainable Rural Housing Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, it is national policy in such areas under urban influence, as set out in National Policy Objective 19 of the National Planning Framework, 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 in such areas under urban influence. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. The proposal would therefore contravene materially objective RCI 4-2 of the County Development Plan, would be contrary to the Ministerial Guidelines and to the overarching national policy. The proposal would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**  
**April, 2019**