



An  
Bord  
Pleanála

## Inspector's Report ABP 303374-19

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<b>Development</b>	House and all associated site works.
<b>Location</b>	Bridgetstown, Inniscarra, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/6492
<b>Applicant</b>	Robert O'Mahony
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellant</b>	Brian Collins
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28/02/19
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site, which has a stated area of 0.255 hectares, is in the townland of Bridgetstown c.1.4km to the east of Inniscara and c. 2.5 km to the north of Ballincollig. It constitutes the eastern most section of a larger field in agricultural use. The eastern and roadside boundaries are delineated by hedgerows with an existing agricultural entrance in the south-eastern most corner of the field. There is a dormer dwelling to the east with a line of approx. 6 dwellings with roadside frontage on the opposite side of the road in a westerly direction. There is in the region of 26 dwellings along an 800 metre stretch of the road to its junction with the local road to the west. The site falls from west to east with higher, wooded lands, noted 500 metres to the south of the road.

## 2.0 Proposed Development

The application was lodged with the planning authority on the 20/09/18 with further plans and details received 22/11/18 following a request for further information dated 07/11/18.

The proposal entails the construction of a two storey dwelling with a stated floor area of 22 sq.m. served by a septic tank and percolation area located to the north. A new entrance is proposed to the west to achieve sightlines of 90 metres. Consent from the landowners (his brother and mother) to alter the roadside boundaries to achieve same has been secured.

No water was recorded in the trial hole with T-value of 15.22 calculated

As per the details provided on the supplementary planning application form and other supporting details accompanying the application the applicant is the son of the landowner and resides in the family home. He works in Cork City and is a part time farmer. The farm holding is stated to be in the region of 100 acres which he runs with his brother.

A letter accompanying the application from the County Council Senior Planner considers that the subject site is the most reasonable within the farm holding.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission for the above described development subject to 21 conditions. Of note:

Condition 2: Occupancy requirements

Condition 9: 90 metre sightlines to be provided.

Condition 12: Surface water to be disposed of by means of soakaways and shall not be allowed to flow onto the public road.

Condition 13: Existing roadside drainage arrangements to be preserved to the satisfaction of the planning authority.

Condition 14: Existing road drainage not be obstructed and the new entrance to be designed and constructed to ensure uninterrupted flow of road surface run-off.

Condition 15: Existing inlets or drains taking surface water from the public road into the site to be preserved and maintained.

Condition 19: Connection to the public water supply.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The 1<sup>st</sup> Planner's report dated 07/11/18 considers that the concerns as set out in the refusal of outline permission on the site under ref. 17/5474 remain applicable. The report from the Senior Planner to the applicant which accompanies the application is noted and he has been instructed to recommend that permission be granted. The site is not located within a mapped flood risk area. The Area Engineer has no issues of concern in relation to flooding. A request for further information for the issues detailed in the Area Engineer's report (summarised below) recommended. The 2<sup>nd</sup> report dated 30/11/18 following further information recommends a grant of permission subject to 21 conditions.

### 3.2.2. Other Technical Reports

The Area Engineer in a report dated 11/10/18 requires further information on alterations to ditches within the sightline triangle and written permission from adjacent landowners. Details are also required on bored wells and wastewater treatment systems within 100 metres. The 2<sup>nd</sup> report dated 26/11/18 following further information has no objection subject to conditions.

### 3.3. Prescribed Bodies

None

Note: The planning authority clarified that no submission was received from Irish Water on the current application but that a submission was received on the previous outline permission application under ref. 17/5474 in which it required that a connection agreement be entered into by the applicant as the area is served by a public water scheme.

### 3.4. Third Party Observations

An objection to the application received by the planning authority in on file for the Board's information. The issues raised are comparable to those in the 3<sup>rd</sup> party appeal summarised in section 6 below.

## 4.0 Planning History

17/5474 – the applicant was refused outline permission for a dwelling on the site for 3 reasons which can be summarised as follows:

1. Location of site within the metropolitan greenbelt and would be contrary to the plan objective to preserve such areas from development.
2. Coupled with existing development the proposal would add to an undesirable level of linear development along a short stretch of road and would constitute an excessive density of development.
3. Applicant has not demonstrated an exceptional housing need as per the requirements of objective RCI 4-1 of the County Development Plan.

07/5644 – permission granted for a dwelling on the site to the east. Dwelling constructed.

## 5.0 Policy and Context

### 5.1. Cork County Development Plan, 2014

The site is within the Metropolitan Cork Greenbelt

#### ***RCI 4-1: Metropolitan Cork Greenbelt***

Objective RCI 41 should be read in conjunction with Chapter 13, Section 13.8 relating to 'Prominent and Strategic Metropolitan Cork Greenbelt Areas' including Objective GI 81 and Figure 13.3.

The Metropolitan Cork Greenbelt is the area under strongest urban pressure for rural housing. Therefore, applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional 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, including 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.

The site is within a Prominent and Strategic Metropolitan Cork Greenbelt Area.

### ***Objective GI 8-1: Prominent and Strategic Metropolitan Greenbelt Areas requiring Special Protection***

Protect those prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Cork Greenbelt and those areas which form strategic, largely undeveloped gaps between the main Greenbelt settlements. These areas are labeled MGB1 in the Metropolitan Greenbelt map (Figure 13.3) and it is an objective to preserve them from development.

#### **5.2. Natural Heritage Designations**

The site is over 14km to the west 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 submission by John McCormack B.E. on behalf of the 3<sup>rd</sup> party appellant, which is accompanied by supporting detail and photographs, can be summarised as follows:

- The appellant has no objection to the principle of the applicant constructing a dwelling.
- Flooding in the area is a problem
- The planning authority's assessment of the issue of flooding is inadequate and incomplete. It does not reflect the extensive investigation, assessment and solutions already designed by the County Council. Funding was made available for the works in 2016.

- National policy guidelines requires the avoidance of natural hazards such as flood risk and avoidance of increased flood risk for downstream areas. Any development should improve on the existing situation.
- The requirements of the Guidelines on Planning and Flood Risk Management should be implemented in full.
- The conditions attached to the permission are inadequate and inappropriate to address the specific flooding problems.
- The proposal disregards the problems in the area and is contrary to the proper planning and sustainable development.

## 6.2. Applicant Response

The submission by Architectural Services on behalf of the applicant can be summarised as follows:

- The proposal would not affect or exacerbate the flooding issue experienced by the appellant. The site is 220 metres from the appellant's boundary and is downslope of it. It has natural runoff to the north away from the road and the soil is of good, permeable quality.
- It appears that some if not all of the appellant's problem is coming from higher ground across from him.
- There is not and has never has been an area flooding problem. An isolated local problem does not constitute an area problem. The area of concern is directly outside the appellant's house where the road slightly rises on both sides.
- The appellant's reasoning has failed to demonstrate how the proposal would exacerbate the problem and how a refusal would somehow improve his situation.
- There are 6 properties in closer proximity to the site than the appellants, none of which lodged an objection.

- Whilst reference is made to the guidelines on flood risk management the appellant has not indicated the appropriateness of the document in the context of the site in question which is not a flood risk site.
- The conditions attached to the decision to grant permission are reasonable.
- The applicant complies with objective RC4-1 in terms of exceptional needs qualification.

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

None

### 6.4. **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
- Site drainage and flooding
- Other issues

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

The site is within the Metropolitan Cork Greenbelt in the current Cork County Development Plan. Invariably due to its proximity to the 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. In addition, the site within a prominent and strategic area within the greenbelt which is to be afforded the highest degree of protection because of the landscape characteristics.

The current County Development Plan is explicit in objective RCI 4-1 that applicants must demonstrate that an exceptional 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. Objective GI 8-1 is even more unequivocal in seeking to preserve such areas from development.

Subsequent to the adoption of the Development Plan I note that the National Planning Framework, published in February 2018, addresses the issue of rural housing. 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.

There is no dispute that the applicant is from the area and continues to reside in the family home in which his mother lives located c.160 metres to the east. I note that his brother secured permission and constructed a dwelling in the field immediately adjoining the appeal site, also to the east.

The applicant places emphasis on the fact that he is involved in running the family farm with his brother on a part time basis and needs to reside in proximity to the farm buildings which are in the region of 220 metres to the east. I note from the details provided in the supplementary application form that he is employed in Cork City.

In view of the development plan objectives for the area I consider that a very high bar is set in terms of demonstrating an applicant's need to have a house at such a location based on genuine economic and/or social need so as to ensure the responsible management of the land resource in an area under pressure from one off housing. In my opinion the case made in this instance falls short.

As noted, the applicant's brother secured permission for a dwelling on the farmholding. This, taken with the family home, as delineated on the site location map accompanying the application means that there are already two dwellings on the holding. There also appears to be another dwelling in the immediate vicinity of the farm buildings. Whether or not this is occupied is unclear. As such the current proposal would, at the very least, constitute the 3<sup>rd</sup> dwelling for a family member

who, at this juncture, is only involved in farming the landholding on a part time basis. I would also query as to why the current site is being pursued in view of the potential alternative sites available in closer proximity to the said farm buildings and whether possible alternative solutions including extension of the family home were explored.

As per the land registry documents the farmholding is two sections and an interrogation of same would suggest that individual plots may have been sold for development. No details are provided to contradict this view.

I submit that these matters need to be fully resolved in view of the very explicit development plan provisions to protect the area from development as set out in objective GI 8-1. To allow for a positive presumption on the basis of the applicant being the son of the landowner, in my opinion, is not sufficient to constitute 'exceptional rural generated housing need'.

I therefore recommend that permission be refused on this basis.

## **7.2. Site Drainage and Flooding**

The appeal site is located c. 220 metres from and downslope of the appellant's property to the east. The site is not within or in the vicinity of any area identified as being at risk of flooding.

As per the documentation accompanying the appeal flooding in the vicinity of the appellant's property including along the local road, is caused from both run off from private farmland and ground water issues on land adjacent to his property referred to as The Lough Field. The flood events of 2009, 2010, 2012, 2014 and 2015/2016 exacerbated the flooding issues. The matter was investigated by the Council which identified that the only feasibly solution to the problem is to pipe the water through private lands to a suitable outfall. The Council agreed to implement the solution as it would alleviate the damage being caused to the public road during flooding including pumping of floodwaters from the appellant's property. Funding was made available on a once off basis but it was unable to secure the consent of the relevant landowner to carry out the works. As such the identified works have not been carried out.

In view of the separation between the appellant's property and the appeal site and the fact that the latter is downslope of the former it is unclear as to how the proposed development would exacerbate the flooding experienced by the appellant. In this context I note that there are two dwellings adjoining the appellant's property the

intervening distance to the subject site. As such I submit that the issues arising are best addressed to the Local Authority. Subject to conditions comparable to those attached by the planning authority addressing the disposal of surface water and protection of the roadside drainage I conclude that the proposal would not adversely impact on the drainage regime in the area.

### 7.3. **Other Issues**

#### *Pattern of Development*

As noted on day of inspection the extent of one off housing in the vicinity is notable with in the region of 26 dwellings along an 800 metre stretch of road in a westerly direction from the appeal site. In my opinion the proposal would exacerbate and consolidate an already unacceptable pattern of development which, in itself, would lead to the further erosion of the rural and landscape character of this area. This would be in material contravention of objective GI-8 of the development plan which seeks to protect such a prominent and strategic site.

This constitutes a new issue. In view of the substantive issue concerning housing need as set out above I no 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 documentation on file, the grounds of appeal, the response therefore, a site inspection and the assessment above I recommend that permission for the above described development be refused for the following reasons and considerations.

## 9.0 Reasons and Considerations

The site is located within the Metropolitan Cork Greenbelt and within an area designated as a Prominent and Strategic Metropolitan Greenbelt Area requiring special protection in the current County Cork Development Plan. It is also within an area identified as being under Strong Urban Influence 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 objectives RCI 4-1 and GI 8-1 of the County Development Plan, would be contrary to the Ministerial Guidelines and to the over-arching national policy. The proposal would, therefore, contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**April, 2019**