



An
Bord
Pleanála

Inspector's Report 303386-19.

Development	A new dwelling house and associated site works.
Location	Coolacullig, Coachford, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	18/06841.
Applicant	John Field.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant	John Field.
Observers	None.
Date of Site Inspection	26 th March 2019.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1 The site, with a stated area of c.0.23hectares is located in the rural townland of Coolacullig, c.2km northwest of the village of Coachford in county Cork. Coachford is located along the R618 c.12 km west of Cork City.
- 1.2 The site is part of an original plot associated with a cottage. Works to the adjoining storey and a half house are near completion. The roadside boundary along the front of this house has been removed for the entirety of its road frontage. The application site is bounded by a stone wall along the road, there is no boundary separating it from the house to the south. The northern and eastern boundary are mature vegetation. To the north, at a lower level is a two storey house.

2.0 Proposed Development

Permission is sought for a two storey house and associated site works.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following **2** reasons:

- 1. The application site is located in a rural area under strong urban influence as identified in the current Cork County Development Plan 2014 wherein it is the policy of Cork County Council to restrict rural housing development to certain limited categories of applicants. Based on the information submitted with this application the Planning Authority is not satisfied that the applicant has demonstrated that he comes within the scope of the housing need criteria for a dwelling at this location as set out in development plan objective RCI 4-2. The proposed development would, therefore, contravene the provision of the Cork County Development Plan 2014 with regard to the provision of sustainable rural housing and would, therefore, be contrary to the proper planning and sustainable development of the area.*

2. *The proposed development involves subdivision of an existing cottage site, and in conjunction with existing and permitted development in the area, would result in an unacceptable density of development in a rural area where public sewerage facilities are not available and would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

- 3.2.1. **Planning Reports** (EP 13th December 2018, countersigned by the SEP 17th December 2018 when second reason for refusal was added on the grounds of public health).

The report of the 13th December 2018 broadly formed the basis for the Planning Authority's decision, the issues raised are reflected in the reasons for refusal.

Points of note include:

- Reference to Planning history associated with the site, the applicant and his wife. History of refusal for non-compliance with the adopted rural housing policies.
- Concerns raised by the Area Engineer were highlighted in relation to sightlines, bored wells, and compliance with the EPA 2009 for wastewater treatment systems.
- The Area Planner noted that the site was located outside the Council's Natura 2000 screening zones. The requirement for Appropriate Assessment was screened out for the proposed development having regard to the lack of ecological or hydrological connection between the site and any European site.

3.2.2. Other Technical Reports

Area Engineer (23rd November 2018)

Further Information was recommended requiring a) that the applicant clearly demonstrated the achievement of 80m sightlines in both directions, revised layout and the relevant consents, if required, b) details and layout indicating all

bored wells within 100m of the site and c) compliance with EPA 2009, with particular reference to separation distances.

3.3 Submissions

One submission was received by the adjoining property owner to the north. Concerns were raised that his bored well would be located downwards from the proposed percolation area which increases the risk of contamination to his water supply.

4.0 Planning History

Application site:

Planning Authority Reference No. 16/4588 refers to a 2016 decision to refuse the applicant permission for a house on the current site on the grounds of non-compliance with the Council's housing need criteria as set out in RCI 4-2 of the Development Plan.

The Area Planner in their report referred to **Planning Authority Reference No. 16/6093** a 2016 application by Jacqueline O'Connell (stated that the landholding is owned by her father-in-law) which was refused permission on the grounds of non-compliance with the Council's housing need criteria as set out in RCI 4-2 of the Development Plan.

The current application has not named the applicant's wife, reference to 16/6093 is included as it was referred to in the Planner's report on file.

Adjoining site:

Planning Authority Reference No. 16/4589 refers to a 2016 application by Darren Field for partial demolition, reconstruction, alterations and extension to existing cottage.

Planning Authority Reference No. 17/5181 refers to a 2017 application by Darren Field that was granted permission for retention and completion of reconstruction work including the replacement of the cottage with modern materials to exactly the same profile.

5.0 Policy and Context

5.1. Cork County Development Plan 2014

Figure 4.1 of the Plan '*Rural Housing Policy Area Types*' identifies the site as being located in a **rural area under strong urban influence**, RCI 4-2 sets out the criteria for qualifying for a rural house in this area.

CS4-1 County Metropolitan Cork Strategic planning area.

Chapter 4: Rural, Coast and Islands sets out the Council's rural housing policy. Of relevance are:

RCI 1-1 which refers to the need to strengthen rural communities and counteract declining trends within the settlement policy framework.

Section 4.3.6 sets out the policy for Rural Areas under Strong Urban Influence and Town Greenbelts.

Objective RCI 4-2 sets out the criteria that must be complied to establish a genuine rural generated housing need. Four categories are set out which includes category **(d)** Persons who have spent a substantial period of their lives (i.e over seven years) living in the local rural areas in which they propose to build a first home for their permanent occupation.

GI 6-1: Landscape and GI 6-2: Draft Landscape Strategy relate to the protection of the landscape of County Cork.

GI 6-1: Landscape:

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all landuse proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.

- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

With regard to the provision of rural dwellings. The following are also relevant.

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

RCI 6-2: Servicing Individual Houses in Rural Areas:

RCI 6-3: Ribbon of roadside development.

RCI 6-4: Occupancy Conditions

5.2 Guidelines

Sustainable Rural Housing Guidelines (2005):

The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures.

To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.

National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government (2018)

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e commute catchment of cities and large towns and centres of employment. This will be subject to siting and design considerations.

In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.

Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009

Sets out guidance on the design, operation and maintenance of on site wastewater treatment systems for single houses.

5.3 Natural Heritage Designations

The Gearagh SAC (site code 000108) is c.12km southwest of the site.

The Gearagh SPA (site code 004109) is c.12.5km southwest of the site.

Mullaghanish to Musheramore Mountains SPA (site code 004162) is c.14km northwest of the site.

5.4 EIA Screening

Having regard to the nature and scale the development which consists of single house in an unserviced rural location, 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 first party appeal seeks to address the Planning Authority's reasons. The grounds of appeal are summarised as follows:

6.1.1 Reason no. 1

The applicant has submitted a letter outlining that he complies with RCI 4-2 of the County Development Plan as his wife is from Coachford, his children attend school in Coachford and he is involved in the local soccer club. A letter from the club has been submitted.

- He currently rents a house in Dripsey, Co. Cork off Cork County Council, this would then be available for other tenants to occupy.
- Letter outlining that he was unable to purchase a house in Coachford due to restrictions on their sale because of sewerage capacity issues.

6.1.2 Reason no.2.

- The applicant has stated that he is prepared to install a biocycle. No further details are provided.

6.2. Planning Authority Response

None.

6.3. Observations

None.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal which seek to address the Planning Authority's reasons for refusal which refers to compliance with the Councils rural housing policy and unacceptable density of development in a rural area which would be prejudicial to public health. The issue of appropriate assessment also needs to be addressed.

It is also considered that, although not included by the Planning Authority in the reasons for refusal or raised by the first party in the appeal, other substantive issues arise. I advise the Board that as these are new issues, if the Board agrees with the assessment and recommendation set out hereunder, they may wish to recirculate to the parties for comment prior to the decision as per the requirements set out under section 137 of the Planning and Development Act 2000, as amended.

The issues can be dealt with under the following headings:

- Rural Housing policy.
- Wastewater treatment.
- Traffic (New Issue)
- Appropriate Assessment.

7.1 Rural Housing Policy

7.1.1. The Sustainable Rural Housing Guidelines require planning authorities in addressing demand for rural housing to distinguish between rural generated housing need and urban generated housing need. Rural generated housing needs should, generally, arise from demonstrable connections to the site, to rural based occupations and/or relationship with the landowners.

7.1.2 It shall be the policy of Cork County Council to facilitate the development of one off rural housing throughout the county by persons demonstrating local rural generated housing needs. The site is located in an area designated as a rural

area under strong urban influence and is the subject of development pressure due to its proximity to nearby towns and Cork city.

- 7.1.3 The applicant has set out in the grounds of appeal that he acquired the site off his father. The site is part of an original plot of land associated with a cottage that has been the subject of two applications by Darren Fields. I note that applicant has referred to his wife as having links to Coachford, the applicant's wife is not named as an applicant in the current application. Furthermore it would appear that her links are to Coachford and not the rural area. The grounds of appeal refers to his place of residence as 3 Radharc na Croise, Dripsey, Co. Cork which is rented off Cork County Council. The applicant has included a statement outlining his links to Coachford and included a letter from Coachford AFC. The applicant's family home is at Farran, c. 12km from the site. There is a history of refusal for non-compliance with the Council's adopted rural housing policy. I note that no supporting documentation has been submitted to demonstrate links to Coolacullig or the immediate area. Based on the information on file I not am satisfied that the applicant has demonstrated that he complies with objective RCI 4-2 of the County Development Plan. Therefore, permission should be refused on this basis.

7.2 Wastewater Treatment

- 7.2.1 The Planning Authority in their reasons for refusal referred to the density of development in this rural area. This raises the issue of over proliferation of individual treatment systems. The applicant addressed this reason for refusal in the grounds of appeal by stated that he is prepared to install a Biocycle unit, no further details are supplied.
- 7.2.2 The density of development in a rural area served by individual effluent disposal systems has significant implications for public health. In this instance, the site is located in an area which is classified as of extreme vulnerability and has no ground water protection scheme in place.
- 7.2.3 The Site Characterisation Report submitted with the application (dated February 2016) recommended that a septic tank and percolation area be installed. A T value of 40.33 (min/25mm) is reported. As the value was less than 90 a P Test was also undertaken to-determine whether the site is suitable

for a secondary treatment system with polishing filter. The P test indicated a value of 32.61 (min/25). Depth of trial holes noted as 2.1m with no mottling and no water table encountered. Water supply would be via a private bored well. I note that there are a number of houses and wells adjoining the site.

7.2.4 There is a significant absence of information on file relating to likely ground flow direction, the location of neighbouring wells in the vicinity, including spot levels for existing and proposed wells and details for the effluent treatment system and associated filters (if required).

7.2.5 Within the site, the proposed well is indicated to be up gradient of the percolation area, limited details are shown on the site layout plan. The site has a gradual slope from southeast to northwest with the adjoining house at a lower level. I am not satisfied, based on the information on file that the applicant has clearly demonstrated that the proposed system would not have a detrimental impact on existing and proposed wells.

7.2.6 Given the absence of information on file and notwithstanding the above assessment and information submitted by the applicant regarding the adequacy of the proposed wastewater treatment system. I have a significant concerns regarding the concentration of wastewater treatment systems at this location and the consequent risks and impacts to water quality that could arise from the proposed effluent treatment system taken in conjunction with the permitted treatment systems on adjoining sites. This issue has not been adequately addressed by the applicant.

7.2.7 The Code of Practice sets out minimum separation distances between wastewater treatment systems and certain features, including separation distance from other wastewater treatment systems and wells. I note that the wider area comprises several houses which are serviced by single wastewater treatment systems which arguably could collectively lead to increased nitrate levels in the receiving groundwater, giving rise to potential for significant cumulative impacts on groundwater quality. In this context, I am not satisfied that there is sufficient information regarding dilution calculations and the potential cumulative impact of the proposed wastewater treatment system on

groundwater quality. Accordingly, I recommend that planning permission is refused on the basis that the proposed development has the potential to give rise to significant cumulative impacts on groundwater quality and be prejudicial to public health.

7.3 Traffic – New Issue

- 7.3.1 Substantive issues arise in relation to traffic and include both technical and policy issues relating to the proposed access to the site.
- 7.3.2 In terms of technical issues. Access is proposed off a narrow county road where sightlines are obstructed at the proposed entrance due to the presence of a stone wall that runs along the roadside boundary. I note that the roadside boundary to the south in front of the cottage has been removed. The applicant has not demonstrated that the requisite 80m sightlines can be achieved at the proposed entrance. Furthermore the applicant has not demonstrated that any works required to achieve said sightlines would not require works to third party lands which would require the relevant consents.
- 7.3.3 Given the nature of the existing roadside boundary, the provision of a domestic entrance and the achievement of 80m sightlines would require the removal of an extensive tract of roadside boundary consisting of a stonewall and embankments along the roadside boundary within the applicant's control. Works to the roadside boundary to the north may also be required. The lands to the south, while forming part of the larger plot of land from which the site is taken, are not indicated to be in the applicant's ownership or control. No letter of consent have been submitted relating to replacement boundary treatment required to achieve sightlines.
- 7.3.4 Based on the information on file, the applicant has not demonstrated that he have sufficient control of the necessary lands to remove the required roadside boundary to achieve adequate sightlines. I consider, therefore, that the proposed development would endanger public safety, by reason of traffic

hazard, because of the additional traffic turning movements the development would generate on a road at a point where sightlines are currently restricted.

- 7.3.5 The question of ownership of boundaries is a legal matter and outside the scope of a planning permission. In this context, I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.
- 7.3.6 In terms of policy, the Development Plan seeks to control the removal of roadside boundaries. Policy **GI 6-1** sets out that proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments will be discouraged.
- 7.3.7 I consider that the extent of the removal of the existing roadside boundary is not acceptable as it would have a negative impact upon the character of the immediate area. In my opinion the impact of boundary removal and replacement boundaries at other locations along site frontages can be seen on the site immediately adjoining the application site. I note that the Cork County Development Plan seeks to retain existing roadside boundaries where they are considered distinctive boundaries, as is the case here. In my mind, the removal of such a large section of roadside boundary would alter the character of the roadway at this location. A modified replacement boundary would alter the configuration of the roadway and consequently the character of the immediate area and detract from the amenities of the area.
- 7.3.8 The principle behind the Council's development management standards is to protect the rural character of the area and to assimilate development into the existing landscape. The principle behind **GI 6-1** which seeks to encourage the retention, wherever possible, of distinctive boundary treatment in the County is to protect the character of the area. This is considered a reasonable approach and I note is applied by most Planning Authorities to development in the rural areas. In my view, to permit such an access under the circumstances presented in this application would set an undesirable precedent. Such an approach would lead to a proliferation of boundary removal along county roads

in rural areas in direct contravention of the overall objective of the Plan which is protect the rural character of such areas.

7.3.9 I consider that the achievement of the required sightlines at the proposed entrance requiring the removal of an excessive amount of roadside boundary which would irrevocably detract from the character of the area, therefore, I consider the proposal unacceptable.

7.4 Appropriate Assessment

7.4.1 The closest Natura 2000 site is The Gearagh SAC (site code 000108) c.12km to the southwest of the site. Given the separation distance to the nearest identified watercourse there is no hydrological connection to the designated site.

7.4.2 Having regard to the nature and scale of the development and its location relative to European sites, I consider 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 European Site No. 000108 or any other European site, in view of the site's Conservation Objectives. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

I recommend that permission be refused for the reasons and consideration set out below,

9.0 Reasons and Considerations

1. Having regard to the location of the site of the proposed development within a Rural Area Under Strong Urban Pressure, and in the absence of sufficient evidence of a genuine and justifiable need for housing in an area designated as being under urban pressure, in compliance with the relevant rural housing policy and criteria set out in the Cork County Development Plan 2014,

National Policy Objective 19 of the National Planning Framework (2018) and the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005, it is considered that the proposed development 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 not, therefore, be in accordance with the proper planning and sustainable development of the area.

2. The Board is not satisfied that, when taken in conjunction with the high concentration of waste water treatment units in the area, the development would not contribute to unacceptable increase of nitrate levels in the receiving groundwater and result in an excessive concentration of development served by waste water treatment units in the area. Accordingly, it has not been demonstrated that the effluent which would be generated as a result of the development can be adequately treated and safely disposed of on-site without risk to groundwater quality. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

3. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate where sightlines are restricted. The proposed development would, therefore, not be in accordance with the proper planning and sustainable development of the area.

*Reason No. 3 refers to a new issue.

Dáire McDevitt
Planning Inspector

3rd April 2019