



An
Bord
Pleanála

Inspector's Report

ABP-304105-19

Development	House with garage and associated works.
Location	Shanballyreagh, Knockraha, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	18/06977
Applicant(s)	Roisin Kelly
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v. Grant
Appellant(s)	Cathal and Michelle O'Brien
Observer(s)	None
Date of Site Inspection	13 th June 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The site is located in Shanballyreagh, approx. 4km north of the settlement of Knockraha and approx. 12km north of Cork City. Shanballyreagh is a rural area characterised by agricultural lands. There are a number of one-off rural dwellings in the immediate vicinity of the site.
- 1.2. The site has a stated area of approx. 0.2ha and is rectangular in shape. It is currently in use as agricultural lands and is characterised by grassland. There is mature trees and vegetation along the eastern boundary with the public road. The site is locally elevated with open views to the west.
- 1.3. Access is from the local road network, which has a speed limit of 80kph. The carriageway is approx. 5m in width with no footpaths or public lighting.

2.0 Proposed Development

- 2.1. It is proposed to construct a traditional 2-storey dormer style house with a gross floor area of 206sqm. The house has a pitched roof with a maximum height of approx. 7m. It has a rendered finish, with black slate roof tiles. The house is to be located in the centre of the site, approx. 26m from the public road. It is also proposed to construct a garage with a gross floor area of 52sqm garage. It has a pitched roof with a maximum height of 5m and is located approx. 2m north of the proposed house.
- 2.2. Access to the house is proposed via a new 4m wide splayed entrance onto the public road. It is proposed to remove existing vegetation and trees which exceed 1m in height along the entire eastern (front) boundary of the site and partially along the eastern boundary of the adjoining site, to the south. A letter of consent from the adjoining landowner was submitted with the application.
- 2.3. The development also includes a new wastewater treatment system with percolation area and a bored well.
- 2.4. A letter of consent from the land owner, was submitted with the application.

2.5. **Further Information lodged on 14th February 2019**

In response to the further information request the applicant clarified that the proposed house would be her first residential property and submitted a contiguous elevation. The response to further information did not result in any alterations to the proposed development.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was granted subject to 13no. conditions. The relevant conditions are noted below: -

Condition 1: - Clarified that permission was granted for the development, including reference to further information submitted.

Condition 2: Occupancy condition, ensured the house is the applicant's primary place of residence for at least seven years.

Condition 3: Required a landscaping scheme to be submitted for the agreement of the Planning Authority.

Conditions 8, 9 and 10: Related to surface water drainage.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The initial Area Planners report considered that insufficient information had been submitted to fully assess the application and requested that further information be sought regarding the following:

- Clarification regarding whether the proposed development would be the applicants first residential property.
- A contiguous elevation showing level differences on the site and the relationship with the existing house to the north.

The final report considered that response to further information adequately address the concerns raised and recommended that permission be granted.

3.2.2. **Other Technical Reports**

Area Engineers Report: No objection.

3.3. **Prescribed Bodies**

Irish Water: No objection

3.4. **Third Party Observations**

A submission was received from Cathal and Michelle O'Brien whose residential property is located to the north of the site. The concerns raised are similar to those in the third-party appeal submission.

4.0 **Planning History**

Subject Site

None

Adjoining Sites

Reg. Ref. 08/8913: Permission was refused in 2008 for a house and wastewater treatment system on a site to the south of the subject site. The 4no. reasons for refusal related to the following: -

- 1) The development would contravene a condition of a previous permission (04/628) that no further housing development would be carried out for a period of 5 years.
- 2) The applicant did not demonstrate eligibility criteria to live in the area. The proposed development would contribute to an excessive concentration of suburban type development in a rural area.
- 3) Contrary to Development Plan objectives which discourages ribbon development
- 4) Removal of mature road boundary would seriously injure the visual amenities and detract from the character of the rural area.

5.0 Policy Context

5.1. Cork County Development Plan, 2014

5.1.1. The site is located in an area of unzoned land. 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'. Policy RCI 4-2 notes that these areas are under significant pressure for rural housing. Therefore, applicants are required to demonstrate that their proposal complies with a genuine housing need.

5.1.2. Relevant Policy's include: -

RCI 4-2 (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'.

HE 2-5(c): Trees and Woodlands: '*Where appropriate, to protect mature trees/groups of mature trees and mature hedgerows that are not formally protected under Tree Preservation Orders*'.

HE 4-6(d): Design and Landscaping of New Buildings: '*Require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings and protecting existing hedgerows in rural areas*'.

GI 6-1(e): Landscape: '*Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments*'.

5.1.3. With regard to the provision of rural dwellings. The following policies 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 6-4: Occupancy Conditions

RCI 2-1: Urban Generated Housing

RCI 2-2: Rural Generated Housing

5.2. **National Planning Framework**

Policy Objective 19: *‘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, 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;*
- *In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements’.*

5.3. **Natural Heritage Designations**

There are no designated areas within the vicinity of the site.

5.4. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from Cathal and Michelle O'Brien whose property is located to the north of the appeal site. The issues raised are summarised below: -

- The proposed house would overshadow, overlook and devalue the adjoining property. The height of the proposed house would have an overbearing impact.
- The location of the wastewater treatment system would pose a risk of pollution to the water well supply of the adjoining property.
- Due to the level difference between the subject site and the adjoining site surface water run-off would flood the adjoining property.

6.2. Applicant Response

The Applicants submission is summarised below:

- The siting and design of the house and garage ensures that the development does not negatively impact on the existing residential amenities of the adjoining property.
- The proposed wastewater treatment system is located 43.6m from the existing water well supply, which exceeds the EPA minimum allowable separation distance.
- To address concerns relating to surface water run off it is proposed to provide a stone drain within the site, to divert any surface water away from the adjoining property and towards the front of the proposed house.

6.3. Planning Authority Response

None

6.4. Observations

None

7.0 **Assessment**

7.1. The main issues in this appeal relate to the impact the house would have on the existing residential amenities of the adjoining property and water services. Compliance with rural housing policy, the visual impact of the development and Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Residential and Visual Amenity
- Compliance with Rural Housing Policy
- Water Services
- Appropriate Assessment

7.2. ***Residential and Visual Amenity***

7.2.1. Concerns have been raised in the appeal that the proposed development would negatively impact on the existing residential amenities of the adjoining property.

7.2.2. The development comprises a traditional dormer style 2-storey house with a gross floor area of 206sqm. The house has a pitched roof with a maximum height of approx. 7m. It has a rendered finish, with black slate roof tiles. The house is to be located in the centre of the site, approx. 26m from the public road and approx. 12m from the northern boundary with the adjoining property. It is also proposed to construct a garage with a gross floor area of 52sqm. The garage has a pitched roof with a maximum height of 5m. It is located approx. 2m north of the proposed house and 6m from the northern boundary with the adjoining property. It is noted that the subject site is elevated approx. 1.5m above the adjoining site. However, having regard to the siting and design of the house it is considered that it would not negatively impact on the existing residential amenities in terms of overlooking, overshadowing or overbearing impact.

7.2.3. To achieve sightlines of 90m in both directions it is proposed to remove the entire hedgerow (approx. 40m) along the eastern (front) boundary of the site and an

additional approx. 38m of hedgerow along the eastern boundary of the adjoining site, to the south of the subject site.

- 7.2.4. Development Plan Policies HE 2-5, HE 4-6(d) and GI 6-1 aim to preserve hedgerows. It is acknowledged that the site is not located within a designated scenic or amenity area and that the wider area is identified as '*Fissured Fertile Middleground*' in the Development Plan, which are landscapes of low landscape value, low landscape sensitivity and are of local landscape importance. They are considered to be robust landscapes which are tolerant to change and have the ability to accommodate development pressure. However, it is considered that the removal of the hedgerow would contravene development plan policy and would negatively impact on the visual amenities of the rural area. It is noted that the loss of the hedgerow was not raised in the appeal and the Board may consider this to be a new issue.

7.3. **Compliance with Rural Housing Policy**

- 7.3.1. The site is located in an area of unzoned land, approx. 4km north of the village of Knockraha. Figure 4.1 - '*Rural Housing Policy Area Types*' of the Development Plan identifies the site as being located in a 'Rural Area Under Strong Urban Influence'.
- 7.3.2. This area applies a restrictive approach regarding the eligibility of applicants for rural housing need. The associated Policy Objective RCI 4-2 requires the applicant demonstrate that their proposal complies with a number of criteria. Relevant criteria includes returning emigrants who spent a substantial period of their lives (i.e over seven years) living in the local rural area, in which they proposed 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. In addition, Policy Objective 19 of the National Planning Framework which requires that the core consideration for the provision of a one-off rural house be based on the demonstrable economic or social need to live in the rural area.
- 7.3.3. The Development Plan defines the 'local rural area' by reference to the townland, parish or catchment of the local rural school to which the applicant has a strong social and / or economic link. A letter from the principal of Scoil Mhuire, Knockraha, confirms that the applicant attended the school between 1985-1993 and that her son

is enrolled in this school for September 2019. The applicant has provided information to show that she has returned from South Africa and wishes to care for her parents who live in the townland of Killeena, approx. 7.5km from the subject site and build her first permanent home. It is noted that applicant and her family are currently renting a house in Knockraha. Having regard to the documentation submitted, it is considered in this instance that the applicant would meet the criteria of Objective RCI 4.2.

- 7.3.4. With regard to Policy Objective 19 of the National Planning Framework, which requires the applicant demonstrate an economic or social need to live in the rural area it is noted that both the applicant and her husband work outside of the locality, therefore, there is no economic reason to reside in the rural area. With regard to a social need to live in the area it is noted from the evidence submitted that the applicant's family home is located within the local rural area and she has links to the local school. In my opinion, this is a demonstrable social need to live in the rural area. It is therefore considered that the applicant complies with Policy Objective 19 of the National Planning Framework.

7.4. **Water Services**

- 7.4.1. It is proposed to install a packaged wastewater treatment system and polishing filter with discharge to ground water. The treatment system is to be located approx. 6m to the east of the house with the percolation area located approx. 10m to the north of the house. Table 6.1 of the 'EPA Code of Practice for Waste Water Treatment and Disposal Systems Serving Single Houses' sets out minimum separation distances which requires a minimum separation distance of 7m between the wastewater treatment system and dwelling house. The proposed system is approx. 6m from the proposed house. Having regard to the overall size of the site it is considered that this issue could be addressed by way of condition.
- 7.4.2. The submitted Site Suitability Assessment Form states that the trial hole with a depth of 2.1m, recorded 100mm topsoil above 2000mm of silty clay. With regard to the percolation characteristics of the soil, a T value of 22.53 minutes / 25mm was recorded. This indicates that the site is suitable for the installation of an on-site domestic waste water treatment system.

- 7.4.3. Concerns were raised in the appeal regarding a potential risk of pollution to the water well supply of the adjoining property due to the proximity of the proposed waste water treatment system. The existing well is shown on drawings submitted with the application to the Planning Authority as being in the south west corner of the adjoining site and approx. 43m north west of the proposed waste water treatment system. It is also proposed to provide a bored well in the south west corner of the subject site to serve the proposed development approx. 35m up slope from the proposed percolation area. Table B3 of the 'EPA Code of Practice' requires a minimum separation distance of 25m between wells and wastewater treatment systems, on a level gradient. The separation distances between the existing and proposed wells and the proposed wastewater treatment system, therefore, exceeds this requirement.
- 7.4.4. Having regard to the information submitted I am satisfied that that the subject site is suitable for the installation of the proposed packaged wastewater treatment system with polishing filter and a bored well.
- 7.4.5. By reference to the OPW Flood Maps the subject site is not located in an area liable to flooding. Concerns were raised in the appeal that the development of the site would result in flooding of the adjoining site. There is a level difference of approx. 1.5m between the subject site and the adjoining site to the north. To reduce the potential for surface water run off to the adjoining site it is proposed to provide a soakaways and a stone drain to divert surface water run off to the front of the property. It is noted that the Area Engineer raised no objection to surface water disposal. Having regard to the information submitted I am satisfied that surface water would be managed and disposed of within the site.

7.5. ***Appropriate Assessment***

Having regard to the nature and small scale of the proposed development and the distance from 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

8.1. I recommend that permission be refused for the reasons stated in the attached schedule.

9.0 Reasons and Considerations

1. Having regard to the extensive removal of mature trees and vegetation along the front (eastern) boundary, it is considered that the proposed development would be contrary to policies HE 2-5(c), HE 4-6(d) and GI 6-1(e) of the Cork County Development Plan, 2014, would seriously injure the visual amenities of the area and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Elaine Power
Planning Inspector

17th July 2019