



An
Bord
Pleanála

Inspector's Report

ABP-304138-19

Development	Construction of house, a garage, and new vehicular entrance.
Location	Ballinacurra, Kinsale, Co Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	18/5004
Applicant(s)	Maebh Toomey and Conor Healy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Joe Sheehy
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 Ballinacurra, approx. 2km west of Kinsale. Ballinacurra is a rural area characterised by agricultural lands.
- 1.2. The site has a stated area of 0.3ha and forms part of a large family landholding. It is rectangular in shape and elevated from the public road by approx. 1.5m. It currently comprises woodlands and is overgrown with vegetation. The southern boundary of the site, with the public road, comprises a hedgerow.
- 1.3. The site is bound to the north and west by woodland, to the south by the public road and to the east by an existing one-off house. Ballinacurra House, c. 1843 which is listed on the NIAH (ref. 21525001) is located opposite the subject site and there are a significant number of one-off houses located in the immediate vicinity.

2.0 Proposed Development

- 2.1. It is proposed to construct a traditional style single storey dwelling. The house has a gross floor area of 164sqm. It has a pitched roof with a maximum height of approx. 6m. The house has a rendered finish. It is to be located in the centre of the site, approx. 16m from the public road. It is also proposed to construct a garage with a gross floor area of 35sqm. The garage has a pitched roof with a maximum height of approx. 5m. The garage is located approx. 6m north of the house, in the north east corner of the site.
- 2.2. Access to the house is proposed via a new 8m wide splayed entrance onto the public road. The proposed driveway is approx. 4.8m in width and provides access to the proposed garage.
- 2.3. The development also includes a new wastewater treatment system with percolation area
- 2.4. A letter of consent from the land owners, who are one of the applicant's parents, was submitted with the application.
- 2.5. ***Unsolicited Further Information lodged 13th June 2018***
A pre-connection agreement from Irish Water was submitted.

2.6. ***Further Information lodged 6th November 2018***

The design and layout of the house and garage were not altered in response to the request for further information. However, the extent of the proposed excavation of the site and the level of hard standing were reduced. The waste water treatment system was also relocated to ensure it reached the minimum standards set of in the EPA's Code of Practice.

Landscaping proposals and an approved tree felling licence were submitted with the further information.

2.7. ***Unsolicited Further Information lodged 20th November 2018***

A letter clarifying the applicant's intention to operate and maintain the proposed waste water treatment system was submitted.

2.8. ***Further Information lodged 15th February 2019***

A revised waste water treatment system and with associated site characterisation assessment was submitted.

2.9. ***Unsolicited Further Information lodged 26th February 2019***

A letter was submitted noting that there was an error on the site characterisation assessment submitted by way of further information and clarified that it is not proposed to provide a bored well on site. a condition to the public mains is proposed.

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant permission subject to 10no. conditions. The relevant conditions are detailed below: -

Condition 2: Occupancy condition ensuring the house remains the applicants permanent house for a minimum of 7 years.

Conditions 3, 4 and 5: Related to the maintenance and operation of the waste water treatment system on site.

Condition 7: Related to surface water management.

Condition 9: Required that sightlines remain unobstructed.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The initial Area Planners report raised concerns regarding the proposed development and requested that further information be sought regarding the following:

- A more ecological and sensitive approach to the site layout, in particular the excessive excavation of the site and the level of hardstanding proposed.
- Revised drawings showing the relationship with an existing property to the east of the subject site.
- Details of the proposed waste water treatment system

The Area Planners report considered that concerns regarding the proposed waste water system had not been addressed adequately and requested that clarification of further information be sought. The final report considered that concerns raised had been adequately addressed and recommended that permission be granted.

3.2.2. *Other Technical Reports*

Engineering Report: The final report raised no objection to the proposed development.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

A submission was received from Joe Sheehy, whose property is located to the east of the appeal site. The concerns raised are similar to those in the third-party appeal submission.

4.0 Planning History

None

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*'.

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

5.2. **Sustainable Rural Housing Development Guidelines**

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.3. **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'.*

5.4. **Natural Heritage Designations**

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

5.5. **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 Joe Sheehy, whose property is located to the east of the appeal site. The issues raised are summarised below: -

- The loss of the wooded area would have a negative impact on the visual amenities of the area and on the environment.
- The siting and design of the house would result in undue overlooking of the adjoining property.
- There is sufficient space within the family landholding to relocate the house.
- The proposal constitutes ribbon development and results in a suburban density. There are zoned sites available in Kinsale.
- The house is located opposite Ballinacurra House, which is a protected structure. The removal of the existing woodlands would have a negative impact on the setting of the house.
- An additional vehicular access onto a busy road would result in a traffic hazard.
- The proposed wastewater treatment could potentially pose a risk to groundwater and local wells.

6.2. Applicant Response

The Applicants submission is summarised below:

- A tree felling licence has been granted with no condition requiring replanting.
- The layout and landscaping proposals submitted by way of further information ensure that the proposed development would not impact on the existing residential amenities of adjoining properties.

- The applicant qualifies to apply for a rural house and the provision of zoned land within Kinsale is irrelevant. There are a number of houses already located along the public road and the Planning Authority did not raise ribbon development as a concern.
- The propose boundary wall of Ballinacurra House is a protected structure. The proposed development would not impact on this structure.
- There is no evidence to suggest that the local road network is at capacity. The proposed development would not result in a traffic hazard. It is noted that the Planning Authorities Area Engineer raised no concerns regarding the proposed development.
- The waste water treatment system was revised by way of further information. It is fully compliant with the EPA's Code of Practice.

6.3. Planning Authority Response

None

7.0 Assessment

- 7.1. The appeal refers to the proposal as modified by way of further information on the 6th November 2018 and 15th February 2019. The following assessment therefore focuses on that proposal with reference to the original proposal, where appropriate.
- 7.2. The main issues in this appeal relate to residential amenity, visual amenity, water services and traffic. Compliance with rural housing policy 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 Amenity
 - Visual Amenity
 - Compliance with Rural Housing Policy
 - Water Services

- Traffic
- Appropriate Assessment

7.3. **Residential Amenity**

- 7.3.1. Concerns have been raised in the appeal that the proposed development would negatively impact on the existing residential amenities of the adjoining property to the east of the subject site. The single storey house is to be located in the centre of the site, approx. 14m from the eastern boundary and the garage, which is to be located to the rear of the house, is approx. 5m from the eastern boundary.
- 7.3.2. It is proposed to excavate the site to a maximum dept of approx. 3.2m and to retain the ground level along the eastern boundary. A landscaping plan submitted on the 6th November 2018 also indicates additional planting along the eastern boundary to screen the development. Having regard to the level differences between the sites, and the siting and design and layout of the house it is considered that the proposed development would not result in undue overlooking, overshadowing or have an overbearing impact on the adjoining property.

7.4. **Visual Amenity**

- 7.4.1. It is proposed to fell 0.3ha of woodland to accommodate the development. The proposed landscaping plan submitted by way of further information indicates that some existing trees will be retained along the northern boundary of the site. Concerns have been raised regarding the negative visual impact the felling of the woodlands would have on the amenities of the area and on the setting of Ballinacurra House.
- 7.4.2. Development Plan Policies HE 2-5 and GI 6-1 discourages proposals to remove extensive amounts of trees. It is acknowledged that the site is not located within a designated scenic or amenity area. However, the wider area is identified as '*Indented Estuarine Coast*' in the Development Plan, which are landscapes of very high landscape value, landscape sensitivity and are of national landscape importance. They are also considered to be extra vulnerable and are likely to be fragile and susceptible to change. Notwithstanding the tree felling licence approved by the Department of Agriculture, Food and the Mairne, I would have serious concerns regarding the significant loss of woodland to facilitate the development.

- 7.4.3. The site is located approx. 100m from Ballinacurra House and is outside of the properties extensive enclosed grounds. Having regard to the separation distance, it is my view that the proposed development would not negatively impact on the setting or visual amenities of the Ballinacurra House.
- 7.4.4. It is also proposed to excavate a substantial portion of the site, to a maximum depth of approx. 3.2m, to accommodate the development. A cross section of the site was submitted by way of further information. Policy GI 6-2 aims to ensure that development has regard to the value of the landscape, its character, distinctiveness and sensitivity in order to minimise the visual and environmental impact of development. Having regard to the landscape classification I would have serious reservations regarding the proposal to significantly manipulate the landscape to accommodate the development.
- 7.4.5. In conclusion, in my opinion the proposal to fell 0.3ha of woodland and excavate the landscape to a maximum depth of 3.2m to provide a flat site, does not have regard to the value, character, distinctiveness and sensitivity of the landscape, and therefore does not comply with Development Plan policy HE 2-5 and GI 6-2. It recommend that permission be refused on this basis.

7.5. ***Compliance with Rural Housing Policy***

- 7.5.1. The site is located in an area of unzoned land, approx. 2km west of Kinsale. 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'. 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 persons 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.
- 7.5.2. The Sustainable Rural Housing Guidelines define rural areas under strong urban influence as those within proximity to the immediate environs or close commuting catchment of large cities and towns. Circumstances for which a genuine housing need might apply include persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas. In addition, Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence,

the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area.

- 7.5.3. 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. Information has been submitted in support of the application which states that one of the applicants grew up in the family home, located to the north of the subject site, and attended local schools. Having regard to the documentation submitted, it is considered in this instance that the applicant would meet the criteria of Objective RCI 4.2(d).
- 7.5.4. 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's 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.

7.6. **Water Services**

- 7.6.1. It is proposed to install a packaged wastewater treatment system and polishing filter with discharge to ground water. Concerns were raised in the appeal regarding the potential risk to ground water.
- 7.6.2. The Site Suitability Assessment Form submitted on the 15th February 2019 states that the site is located in an area of high vulnerability and while the site appears suitable, groundwater and domestic water could be at risk. Table 6.1 of the 'EPA Code of Practice for Waste Water Treatment and Disposal Systems Serving Single Houses' sets out minimum separation distances. The proposed system reaches and exceeds the recommended separation distances.
- 7.6.3. The trial hole recorded 2.6m of crumbly soil with small stones. With regard to the percolation characteristics of the soil, a T value of 6.4minutes / 25mm was recorded. This indicates that the site is suitable for the installation of an on-site domestic waste

water treatment system. It is noted that the Area Engineer raised no objection to the proposed wastewater treatment system.

- 7.6.4. In conclusion, 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 and polishing filter.

7.7. **Traffic**

It is proposed to provide a new 8m wide splayed entrance onto the local road network. Sightlines of over 90m are available in both directions. Concerns have been raised in the appeal that the additional turning movements on the local road network, generated by the proposed development, would result in a traffic hazard. Having regard to the nature of the local road, the available sightlines and the limited number of vehicular trips that could potentially be generated by the proposed development, it is my view that the proposed development would not result in a traffic hazard or any road safety issue.

7.8. **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. The felling of 0.3ha of woodland and the excavation of the site, to accommodate the proposed development, would significantly interfere with the character, value, distinctiveness and sensitivity of the landscape and would contravene Policy Objective HE 2-5 and GI 6-1 of the Cork Council Development Plan

2014, would detract from the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Elaine Power
Planning Inspector

27th July 2019