



An
Bord
Pleanála

Inspector's Report ABP-304969-19

Development	House and waste water treatment system
Location	Rosnagussane, Ballyclogh, Mallow, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/5118
Applicant(s)	Gemma Linehan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Gemma Linehan
Date of Site Inspection	16 th October, 2019
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site of the proposed development is located in a rural area approximately 2km south-west of the village of Ballyclogh and 9km north-west of Mallow in County Cork. It forms the north-western end of an existing field in agricultural use. It is a relatively level field with dense hedgerows forming its boundaries. The site fronts onto a minor local road. Development in the vicinity comprises farm buildings and sporadic one-off houses.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a house and the installation of a waste water treatment system.
- 2.2. The proposal would consist of a two-storey, three bedroom house with a stated gross floor area of 182.94 square metres on a site stated to be 0.328 hectares in area. The applicant is a prospective purchaser of the site. The house would be served by a private waste water treatment plant and a private well.
- 2.3. Details submitted with the application included a letter of consent from the landowner permitting the making of the application and the alteration of ditches, a site suitability report and details of a waste water package treatment plant.

3.0 Planning Authority Decision

3.1. Decision

On 27th June 2019, Cork County Council decided to refuse permission for the proposed development for one reason relating to lack of rural generated housing need.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site is located within a Rural Area under Strong Urban Influence and made reference to the policy context for the proposal and the Area

Engineer's report. It was submitted that the applicant had not demonstrated that she complies with any of the categories of housing need provided for in the County Development Plan and refusal was recommended on this issue. Concern was also raised about the density of housing in the vicinity and the addition of another house in that context. It was considered that the proposal should be subject to Appropriate Assessment having regard to the risk to water quality posed to the Blackwater River SAC 2.1km from the site.

The Senior Executive Planner concurred with the Planner's recommendation.

3.2.2. Other Technical Reports

The Area Engineer requested further details on the proposed polishing filter and a flood risk assessment.

4.0 **Planning History**

I have no record of any planning application or appeal relating to this site.

5.0 Policy Context

5.1. Cork County Development Plan 2014

The proposed site is located within a designated 'Area under Strong Urban Influence'.

Rural housing objectives include:

RCI 4-2: Rural Area under Strong Urban Influence

The rural areas of the Greater Cork Area (outside Metropolitan Cork) and the Town Greenbelt areas are under significant urban pressure for rural housing. Therefore, 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.

5.2. Appropriate Assessment

The site of the proposed development is located well in excess of 2km north of the Blackwater River SAC. This SAC lies to the south of the N72 National Secondary Road at its nearest location to the appeal site. However, the connectivity between the site and the SAC by way of surface water stream linkage is several kilometres to the south-east, i.e. a short distance west of Mallow Racecourse. Having regard to the extensive separation distance between this site and the SAC, to the minor scale of development, to the limited scale of potential pollutants arising from a small scale residential development, and to the tenuous indirect links with the distant SAC, 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 any significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.3. EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- The applicant has demonstrated that she has a genuine rural generated housing need and is in compliance with the categories (Part (d)) of housing need set out in RCI 4-2 of the Cork County Development Plan. The Supplementary Application Form clearly demonstrates this. She is a person who has spent a substantial period of her life living in the local rural area in which she proposes to build a first home.
- With reference to “local”, the applicant’s original family home from 1996 to 2004 is only 2.7km from the site and her current family home and place of work is 3.67km from the site.
- Permission was recently granted (P.A. Ref. 17/05368) where the applicants’ current place of residence in that instance was 3.7km from their proposed site and where their home place was 5.4km from the site. The shorter distances of the current application should be considered local.
- The applicant has lived with her parents in Ballyhass for the last 15 years. Going on the criteria of a minimum period of 7 years as indicated in part d in RCI 4-2, this is more than adequate to meet the criteria. Just because the applicant’s parents lived in the village when she was very young cannot be the deciding factor when she lived the last 15 years in the associated rural area.
- The applicant would have no issue living in the village if she could get a suitable site or house there but she can’t. The proposed site is the nearest and only local suitable site available. Thus, the applicant should be considered as an “eligible suitable local”.
- The applicant does not own and never has owned or built a house of her own. She lives with her parents and has a housing need.
- The planning authority did not explain why it was of the opinion that the applicant had not demonstrated compliance with categories of housing need set out in RCI 4-2.
- The issues of house design, protection of a water course during construction, appropriate assessment and flood assessment could have been addressed by further information or conditions attached to permission.

6.2. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

7.0 Assessment

7.1. Introduction

7.1.1 I consider that the principal planning issues relating to the proposed development are housing need and adequacy of infrastructure. The appellant refers to addressing concerns relating to the development of infrastructure on this site. This issue is, therefore, not a new issue in considering this appeal.

7.2. Housing Need

7.2.1 The proposed development would be located in an unserviced, remote rural area.

This is an area designated an 'Area under Strong Urban Influence' in the Cork County Development Plan, an area that is generally undergoing significant development change as modern housing encroaches. In order to protect the quality of this environment, there is a basic requirement to demonstrate a genuine rural housing need to develop a house in such a location. Objective RCI 4-2 of the Cork County Development Plan sets out the eligibility criteria needing to be met by a prospective applicant within an Area under Strong Urban Influence.

7.2.2 The appellant submits that she meets with eligibility criterion d) of Objective RCI 4-2, namely a person who has spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which she proposes to build a first home for her permanent occupation. The appellant has provided details showing that she has resided with her family in the Cecilstown and Ballyhass areas all her life. She has submitted that she currently resides in Ballyhass and that she is a mechanic who works at Ballyhass Motors, which is located to the west of Cecilstown. Ballyhass is some 7km by road north-west of the appeal site and one would pass through the villages of Cecilstown and Ballyclogh on the approach to the site from the current place of residence. It is clear that the appellant is not a resident of the Rosnagussane locality. Having regard to the eligibility criteria of Objective RCI 4-2 in the Cork County Development Plan, it is also apparent that the appellant is not a

farmer of land at this location, is not taking over the running of a farm at this location, and does not work fulltime in farming, forestry, inland waterway or marine-related occupations. It is, therefore, my submission to the Board that the appellant has not demonstrated a rural-generated housing need to be accommodated at this location

7.2.3 Having regard to the above, it is apparent that, as well as being contrary to the Development Plan provisions, the appellant's proposal would run contrary to the *Sustainable Rural Housing Guidelines for Planning Authorities*, with the appellant having no genuine rural housing need within an area of the county under significant development pressure for one-off housing, i.e. an Area under Strong Urban Influence.

7.2.4 Further to the above guidance, I note national planning policy as set out under the *National Planning Framework* published in February, 2018. This includes the following:

- With reference to the development of rural areas, 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, while sustaining vibrant rural communities.
- National Policy Objective 19 seeks to 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, it is policy 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 and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

7.2.5 From the details in the appeal file, it is very clear that the appellant does not have any justification that would merit permitting the development of a house on this site. The National Planning Framework objective of managing the growth of areas that are under strong urban influence to avoid over-development would essentially be

contravened. The proposal would, thus, be in conflict with the National Planning Framework.

7.3 Adequacy of Infrastructure

7.3.1 In permitting development such as that proposed, it is apparent that one would be facilitating the further development of suburban sprawl in an unserviced rural area. This proposed development seeks to be serviced by a private waste water treatment plant. I note the planning authority's Area Engineer refers to part of the site being on the Draft OPW PFRA maps and considers that a flood risk assessment should be carried out for this site, "taking into account the location of the treatment plant and percolation area." I would seriously question the viability of such a treatment system at this location and consider that it potentially poses a pollution risk. I note from my site inspection that there was significant ponding on the site at the location for the proposed percolation area and that there is substantial soft rush growing on this site which demonstrates the poor drainage characteristics throughout the year of the soils at this location. The Board should note that this location borders an open stream. I further note that the proposed development, according to the Site Suitability Report on the proposed waste water treatment system and the submitted planning application drawings, would be served by a private on-site well. Further to this, I note the very narrow minor local road (less than 3.5m in width for much of the route) onto which the proposed development would access. This is a road that cannot accommodate two-way vehicular movement due to its restricted width.

7.3.2 Taking each of these infrastructural deficiencies into account, I submit to the Board that this demonstrates the unsustainability of the proposed development and permitting such development could not be construed as constituting proper planning and sustainable development.

8.0 Recommendation

- 8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the location of the site within an Area Under Strong Urban Influence as designated in the Cork County Development Plan 2014-2020 and to the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* and the National Policy Objectives of the National Planning Framework (February 2018), which seek to manage the growth of areas that are under strong urban influence to avoid over-development and to ensure that the provision of single housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the County Development Plan for a house at this sensitive rural location and does not comply with National Policy Objectives. The proposed development, in the absence of any identified locally based need for the house, 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, thus, contravene the objectives of the Cork County Development Plan, would be contrary to the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* and rural policy provisions of the National Planning Framework, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would constitute random housing development in a rural area lacking public services and community facilities and served by a poor road network. The proposed development would, therefore, give rise to the

demand for further public services and community facilities and would, thus, be contrary to the proper planning and sustainability of the area.

Kevin Moore
Senior Planning Inspector

21st October 2019