



An
Bord
Pleanála

Inspector's Report ABP-305500-19

Development	House and waste water treatment system
Location	Ballymoreagh, Daingean, Contae Chiarraí
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	19/709
Applicant(s)	Léan & Micheál Uí Móráin
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Léan & Micheál Uí Móráin
Date of Site Inspection	27 th November, 2019
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site for the proposed development is located in a rural area approximately 4km north-west of the town of Daingean in County Kerry. It comprises part of a larger field in agricultural use with frontage onto a narrow local road. The site falls away from the public road to the rear of the site. It has panoramic views of Dingle Harbour to the south-east. Development in the immediate vicinity comprises extensive numbers of detached houses and some agricultural buildings. There is a Recorded Monument, a ring fort, 50 metres to the south-west of the site.

2.0 Proposed Development

2.1. The proposed development would comprise a four bedroom single-storey dwelling with a stated gross floor area of 264 square metres on a site area of 0.38 hectares. The house would be served by a mains water supply and a private on-site waste water treatment plant.

2.2. Details submitted with the application included a completed site characterisation form.

3.0 Planning Authority Decision

3.1. Decision

On 2nd September 2019, Kerry County Council decided to refuse permission for the proposed development for three reasons relating to impact on the amenities of the area, impact on archaeological heritage and impact of effluent disposal on the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site planning history, development plan provisions, and reports received. It was noted that pre-planning advice recommended an alternative location be pursued and this advice was not taken up. The previous refusal of permission in the field was acknowledged and the previous reason for refusal on visual impact grounds was considered to remain valid. The proposal was seen as

leading to a pattern of ribbon development outside of established clusters. It was submitted that the applicant would appear to satisfy the rural settlement policy for the area. The reports from the Site Assessment Unit and County Archaeologist were noted and it was considered that their conclusions should also form reasons for refusal. A refusal of permission for three reasons was recommended.

3.2.2. Other Technical Reports

The Environment Section's Site Assessment Unit stated the site was not visited. Findings in the applicants' site characterisation report were repeated. Clarification was requested on the type of waste water treatment proposed.

The County Archaeologist noted the site is located partly within the zone of archaeological potential of Recorded Monument Ke043-209 and recommended that an archaeological impact assessment be carried out.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

3.4. Third Party Observations

Representations were made by Cllrs Michael D. O'Shea and Séamus Cosáí Fitzgerald.

4.0 Planning History

P.A. Ref. 18/220

Permission was refused for a house, garage and waste water treatment system. This site, on land immediately to the south-west, overlaps with part of the site of the proposed development currently on appeal.

5.0 Policy Context

5.1. Kerry County Development Plan 2015-2021

Landscape

The site is located within an area zoned 'Rural General'.

Objectives for landscape protection include:

ZL-1: Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to peoples' lives.

ZL-4: Regulate residential development in rural areas in accordance with the zoned designation of that area and the policies outlined in the Rural Settlement Strategy set out in Section 3.3 of the Plan.

Rural Settlement

The site is located within an area designated a Stronger Rural Area.

Objectives include:

RS-10: Facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations.

RS-11: Consolidate and sustain the stability of the rural population and to promote a balance between development activities in urban areas and villages and the wider rural area.

5.2. **Appropriate Assessment**

Having regard to the very significant separation distances between the proposed site and the nearest European Sites (Mount Brandon SAC and Dingle Peninsula SPA) and the relatively minor nature and extent of the proposed development, 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 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 summarised as follows:

- It is not feasible to move off the site as it was inherited from the family farm on recommendation from Kerry County Council from a pre-planning meeting years previous.
- The proposal would not compromise objective ZL-1 of the County Development Plan as it can be integrated with careful landscaping and reinstatement of the boundary.
- The visual impact of the house has been exaggerated.
- The application has not been given the same degree of attention as other recent applications in the immediate area which had the same issues. The Council has been highly contradictory by granting a number of other

developments that are greater in scale and bulk and far more injurious to the landscape.

- The only cluster development in the area are six farm clusters. The one-off housing is all of ribbon format. The proposed design better reflects the building arrangement found within the farm clusters.
- An archaeological impact assessment was not requested as recommended and cannot be used as a reason for refusal. The house was moved to the recommended 40m setback for archaeological impact.
- The recommendation on the waste water treatment system was not requested as recommended and cannot be used as a reason for refusal. The highlighted issues would be easily overcome and all effluent would be correctly disposed of on site.

The appeal submission included a report which included details as to why the appellants need to live at this location, reference to the building character, entrance and road access, and commentary on a number of planning applications granted along the local road. Photographs of housing in the vicinity and photo representations of the proposal were also submitted. A letter from the appellants relating to their housing need is included, as well as employment-related and family landholding information.

6.2. **Planning Authority**

The planning authority provided details of pre-planning consultation which referred to discussion on an alternative location for a house to the north-east of the proposed location adjacent to an existing cluster of buildings to avoid a pattern of ribbon development. It was noted that the planning application before the Board did not concur with this.

7.0 **Assessment**

7.1. Introduction

I consider that the principal planning issues relating to the proposed development are the rural housing need, the pattern of development in the area, the visual impact

of the proposed house, the traffic impact, the archaeological impact, and the disposal of waste water.

7.2. Rural Housing Need

7.2.1 It appears reasonable to determine from the details submitted in both the planning application and the appeal that the appellants are originally from the general location in which the proposed site is located. The father of the appellant Micheál Ó Móráin resides on the opposite side of the local road onto which the site has frontage. The appellants have submitted that Micheál Ó Móráin works with Údarás na Gaeltachta and Léan Uí Mhóráin works as a pharmacist in the town of Daingean. While the appellants may have demonstrated that they are originally from the locality and remain connected to the locality, I submit to the Board that there are no details in the appeal file to demonstrate how the appellants have a 'rural generated housing need' that would merit the acceptance of their entitlement to a house at this location in principle. It appears that the appellants are employed elsewhere and there is no information to suggest they have any functional or direct employment links with the land at this location. There is no detail to indicate any family landholdings at this location, there is no detail that clearly shows the appellants are an intrinsic part of the local rural community, and there is no information to suggest that the appellants work full-time or part-time in this rural area.

7.2.2 I submit to the Board that, based on the appellants' submission on need, this proposal would run contrary to the *Sustainable Rural Housing Guidelines for Planning Authorities*, as the appellants have demonstrated no genuine 'rural' housing need within an area of the county that is clearly under significant development pressure for one-off housing. I note that it is an area designated 'Stronger Rural Area' in the County Development Plan. One can clearly see from the extensive development of one-off houses in this immediate location that this is an area that is under strong urban influence and from holiday home development. The amenity value and environmental qualities of this area are being severely eroded by the impact of such housing. It is evident that the appellants' housing needs can reasonably be met within the settlements in this area without the need to intensify the development of one-off housing at this rural location, with its likely adverse

consequential effects. The Rural Housing Guidelines acknowledge, in the context of 'Stronger Rural Areas', the role of villages and towns in accommodating additional housing development catering for persons working in towns but desiring a rural lifestyle. Furthermore, the Guidelines advocate in Stronger Rural Area that development be carefully monitored to avoid areas becoming overdeveloped in terms of leading to extensive ribbon development. In the context of what is proposed and how development in this location is evolving, it is clear that the proposal does not fit with the requirements of the Rural Housing Guidelines.

7.2.3 Further to the above guidance, I note national planning policy as set out under the *National Planning Framework*. 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.

7.2.4 From the details on the appeal file, it is clear that the appellants do not have any justification that would merit permitting the development of a house on this site. This proposal would also be in conflict with the National Planning Framework.

7.3. The Pattern of Development in the Area

7.3.1 This issue has already been alluded to above. It is apparent that the area is under severe pressure for one-off housing and that the area has succumbed to such

pressure, with ribbon development being a common component of the local environment, incorporating lines of houses of varying designs, scale, height and character. The proposed development will add to the linear pattern of housing development along the existing minor local road onto which the site has frontage. This cannot be seen as being sustainable, adding to the likely future pressure for enhanced public services that would be uneconomical to provide and further undermining the amenity and environmental qualities of this remote, scenic location. It is pertinent to note that the appellants acknowledge in their appeal that one-off housing is all of ribbon format in this area and that along the local road's 3km length there are 23 houses and six farms. The need to curb such patterns of development is self-evident when considering the concept of 'sustainable' development.

7.4. The Visual Impact of the Proposed House

- 7.4.1 The proposed site forms part of a large field. It is bounded to the north-west by the roadside hedgerow but otherwise is exposed, being separated from the other field boundaries. The land at this location slopes southwards and the site commands panoramic views south-eastwards towards Dingle Bay. It is a highly scenic rural location, albeit part of a landscape designated in the current Kerry County Development Plan as 'Rural General'.
- 7.4.2 The proposed development comprises a large house with an expansive footprint that has a gross floor area of 264 square metres. It would rise to a height in excess of 5.8 metres. This is not a development which can be easily integrated within an open and exposed field that is highly visibly due to its context, notably from the south. The wide expansive panoramic views from this site ably demonstrate how visible this site is to the wider environment.
- 7.4.3 In my opinion, there can be no doubt that the development of the proposed house would in itself form a prominent structure in its exposed context and, taken together with existing development, would further exacerbate the visual incongruity that prevails as new one-off housing and ribbon develop pervades this locality. Notwithstanding attempts that may be made to screen the proposed house, it is evident that the landscaping proposal for the site, with sporadic limited tree and shrub provisions and new laid lawn, together with roadside frontage removal, is more

likely to increase the visibility of this development and will not address its prominence. The proposed development would be a highly intrusive structure at a sensitive location.

7.5. Traffic Impact

7.5.1 The surfaced carriageway of the minor local road onto which the proposed development would access is approximately 3m in width. It cannot accommodate two-way vehicular traffic. This local road is evidently very narrow and, combined with this, the alignment is particularly poor, which limits visibility along extensive stretches of the road. The extensive numbers of houses using this road has been referred to earlier. To be adding further vehicular traffic to this road generated by housing that has no genuine rural housing need is wholly unsustainable and it will add to the traffic hazard that exists due to the deficiencies in this road network.

7.6. Archaeological Impact

7.6.1 One of the reasons the planning authority refused permission for the proposed development was because, in the absence of an archaeological impact assessment, it was not satisfied that the proposal would not injure or interfere with the archaeological heritage of the area.

7.6.2 I note the presence of a distinctive Recorded Monument (Ke043-209), a ringfort, a short distance to the south-west of the site. The County Archaeologist noted the site is located partly within the zone of archaeological potential of this Recorded Monument and recommended that an archaeological impact assessment be carried out. It would appear that the development of a new house in the immediate vicinity may likely impact on the setting of such a monument. The request for an archaeological impact assessment in such a context is merited to address direct and indirect effects.

7.6.3 In my opinion, it would appear premature to determine that the proposed development would injure or interfere with the archaeological heritage of the area and that this reason for refusal could not be warranted at this time. The applicants

should have been afforded the opportunity to seek to provide such an assessment prior to conclusions being drawn on this issue.

7.7. Disposal of Waste Water

7.7.1 The planning authority was not satisfied that the effluent arising from the proposed development could be adequately disposed of on this site and one of the reasons for refusal reflected this concern. I note that the Environment Section requested that further information be sought on the issue of waste water disposal as there appeared to be a degree of confusion between the Development Description Sheet and the Site Assessment on whether a soil polishing filter or a sand polishing filter was proposed to be used. The Environment Section otherwise accepted the findings of the site assessment submitted by the applicants.

7.7.2 I note from my site inspection, which was immediately after a prolonged spell of heavy rain, that the site forms part of a larger field that is free-draining. There was no evidence of ponding and no vegetation visible that would indicate the land is subject to poor drainage conditions. Having regard to the details provided in the applicants' site assessment, the findings of the Environment Section of the planning authority, and the conditions found while on site inspection, it is considered reasonable to conclude that the site could be accepted as being capable of accommodating the waste water that would be generated by the proposed house by the use of a waste water treatment system.

8.0 **Recommendation**

8.1. I recommend that permission is refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the extensive one-off housing in this location in close proximity to the town of Daingean, to the location of the site within a Stronger Rural Area as designated in the Kerry County Development Plan, to the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* and to the National Policy Objectives of the National Planning Framework, 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 applicants do not come within the scope of the housing need criteria as set out in the Rural Housing Guidelines for a house at this rural location and do 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, 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 site of the proposed development is located in a remote rural area of scenic and amenity value in West Kerry. It is an objective of Kerry County Development Plan to protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to peoples' lives (Objective ZI-1). It is considered that the siting of the proposed house on this open, exposed and prominent site would constitute an obtrusive feature on the landscape, would seriously injure the visual amenities of the area, would conflict with the Development Plan objective, and would, thereby, 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 and obstruction of road users because of the additional traffic turning movements it would generate onto a minor local road that is seriously substandard in width and alignment.

Kevin Moore
Senior Planning Inspector

9th January 2020