



An
Bord
Pleanála

Inspector's Report

ABP-305718-19

Development	Construction of a single storey dwelling, shared site entrance and installation of sewerage treatment system.
Location	Kilnaglory, Ballincollig, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/5443
Applicant(s)	Ann Marie Drinan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellant(s)	Ann Marie Drinan
Observer(s)	None
Date of Site Inspection	18 th December 2019
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site is located in Kilnaglory, Ballincollig, approximately 350 metres south of the N22 National route. The site is located approximately 1.9 kilometres south of the village of Ballincollig and approximately 10km south-west of Cork City Centre. Kilnaglory is a rural area characterised by agricultural lands. There are a significant number of one-house houses located in the vicinity of the site.
- 1.2. The appeal site is located in the side garden of an existing one-off house. It has a stated area of 0.21 hectares and is triangular in shape. The site levels rise significantly from north to south and the finished floor levels of the proposed house would be approximately five metres above the levels of the adjoining public road. Access to the site is proposed via a spur from the existing driveway serving the existing house to the east (which belongs to the appellant's brother, but remains uninhabited as service pipes around its perimeter remain exposed, no flooring, kitchen units or furniture in place), which in turn has an access onto the adjoining public road. A right of way over the existing access and part of the driveway has been included as part of the proposals.

2.0 Proposed Development

- 2.1. It is proposed to construct a single storey house with a gross floor area of 224 square metres (sq. m.). The house is of traditional style design. It has a pitched roof with a maximum ridge height of approximately 4.75 metres. The house would be located to the rear of the site, approximately 17 metres from the rear (southern) site boundary, and 70 metres from the public road.
- 2.2. A new driveway approximately 45 metres in length is proposed.
- 2.3. Part of the land is within the ownership of the applicant's brother and the remainder is within the ownership of the applicant's mother. Letters of consent to make the application have been submitted.
- 2.4. The development provides for a wastewater treatment system and percolation area. Water supply is proposed from a proposed on-site bored well.

- 2.5. A supplementary Planning Application form was submitted to the Planning Authority. A justification report supporting the applicants rationale to live in the rural area and a map outlining the full extent of the lands within the ownership of applicants mother, which also details the location of the family home in relation to the appeal site, were also submitted. The information submitted did not result in any alterations to the proposed house.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was refused for the following reasons:

1. The proposed development is located within the Metropolitan Cork Greenbelt where it is the policy of the Planning Authority, as set out in policy Objective RC1 4-1 of the Cork County Development Plan 2014, to require applicant's to demonstrate that their proposals constitutes an exceptional rural generated housing need as set out in this objective. This objective is considered to be reasonable. It is considered that the applicant has not demonstrated that she constitutes such an exceptional housing need for a dwelling, in accordance with this policy objective. The proposed development would, therefore, be contrary to the policy objectives of the Cork County Development Plan 2014 and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development, when taken in conjunction with existing dwellings in the vicinity, would represent an excessive density of development in a landscape with limited capacity to assimilate same, would lead to an erosion of the rural and landscape character of this area and would conflict with policy objectives RCI 6-1 and GI 6-1 of the County Development Plan 2014. The proposed development would set a poor precedent for similar developments in the area and would therefore be contrary to the proper planning and sustainable development of the area.

3.1.1. **Planning Reports**

The Planning Officer recommended a refusal of planning permission for the two reasons outlined above.

3.1.2. **Other Technical Reports**

- Liaison Officer: No comment.
- Area Engineer: Recommended that further Information be sought regarding the submission of site-specific construction drawings pertaining to the proposed proprietary wastewater treatment system and percolation area.

3.2. **Prescribed Bodies**

- Irish Water: Report outstanding.

3.3. **Third Party Observations**

None

4.0 **Planning History**

Reg. Ref. 17/7408: Permission was refused by Cork County Council in 2018 to Ann Marie Drinan on the current appeal site for the construction of a house on a site located approx. 60m north of the appeal site. The two number reasons for refusal related to being contrary to the Metropolitan Greenbelt zoning objective and that the proposed development would result in an incongruous, prominent and overbearing feature within the local landscape.

Reg. Ref. 08/5696: Planning permission was granted to the current appellant's brother (Mark Drinan) in 2008 for a house and wastewater treatment system on family lands located immediately east of the appeal site.

5.0 **Policy and Context**

5.1. **Cork County Development Plan, 2014**

The subject site is located on un-zoned lands. Figure 4.1 of the Plan 'Rural Housing Policy Area Types' identifies the site as being located in the Cork 'Metropolitan Greenbelt' area. Policy RCI 4-1 notes that these areas are under the strongest urban pressure for rural housing. Therefore, applicants shall satisfy the Planning authority

that their proposals constitute an exceptional 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, including their sons and daughters who wish to build a first home for their permanent occupation on the family farm.
- b) Person taking over the ownership and running of a farm on a full-time bases, 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 full-time 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) Landowners including their sons and daughters, who wish to build a first home for their permanent occupation on the land holding associated with their principal family residence for a minimum of seven years prior to the date of the planning application.

The total number of houses within the Metropolitan Greenbelt, for which planning permission has been granted since the plan came into operation on a family farm or any single landholding within the rural area, will not normally exceed two.

The site is located in an area identified as Broad Fertile Lowland Valleys (Area 6a) in Landscape Character Assessment (Appendix E) of the Plan. These locations are designated as areas with a high landscape value and sensitivity, of County importance which are vulnerable landscapes with the ability to accommodate limited development pressure.

The following policies are also relevant:

- RCI 5-1: Metropolitan Cork Greenbelt;
- RCI 5-2: Purpose of Greenbelt;

- RCI 5-3: Land Uses with Metropolitan Greenbelt;
- RCI 5-4: Sustainability of Exceptions to Greenbelt Policies;
- RCI 6-1: Design and Landscaping of New Dwelling Houses in Rural Areas;
- RCI 6-2: Servicing Individual Houses in Rural Areas;
- GI 6-1: Landscape;
- GI 8-1: Landscape;

The Cork Rural Design Guide: Building a New House in the Countryside, 2003 is also considered relevant.

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 in 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 is 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, 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 in the vicinity of the appeal site.

5.5. Environmental Impact Assessment-Preliminary Examination

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 (EIA) 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 first party appeal against the Planning Authority’s decision to refuse permission has been submitted. The submission addresses the two number reasons for refusal and is summarised below:

- It is stated that the site is fully serviced/serviceable in terms of access, water and wastewater.
- The proposed single storey design overcomes the issue of impacting upon the residential amenities of the neighbouring property to the west as set out in the second reason for refusal of planning permission in 2018 by the Planning Authority.
- The proposal pertains to a rural generated housing need within a rural area on family owned lands. It is stated that she was reared in a rural area approximately 2.5 kilometres south-east of the site.
- It is stated that the proposal complies with the Rural Housing Policy of the Development Plan in terms of developing on the family land holding and is

consistent with the provisions of the 2005 Guidelines on Sustainable Rural Housing.

- Her brother was deemed to have demonstrated a rural generated housing need at Kilnaglory in 2008. As the appellant grew up in the same house as her brother, would her circumstances not be treated in the same manner?
- There are no specific designations set out in the Development Plan in this vicinity in the form of protected structures, protected views or prospects or archaeology which would prohibit the granting of planning permission on the appeal site.
- The appeal site is located outside of the Prominent and Strategic Metropolitan Greenbelt Areas requiring Special Protection and mapped within the Development Plan. The site is part of the built-up Greenbelt area identified in the Development Plan since 1996.
- The appeal site is located within an existing residential cluster and therefore would not exacerbate ribbon development.
- It is stated that the applicant has a genuine rural housing need in accordance with the Development Plan provisions and that she has resided in the Ballinora area for 39 years.
- The development has been designed in accordance with the Cork Rural Design Guide and is in keeping with the character of the area.
- A number of similar type precedents have already been permitted by the Planning Authority for one-off housing in unserviced Green Belt areas in Cork.

6.2. Planning Authority Response

No additional comments were received from the Planning Authority.

7.0 Assessment

- 7.1. The main issues in this appeal relate to the reasons for refusal, in this regard compliance with Cork Rural Housing Policies and the density of development within a landscape with limited assimilative capacity. Another issue that is to be assessed

is that of wastewater treatment. 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:

- Compliance with Rural Housing Policy.
- Density of development.
- Wastewater Treatment.
- Appropriate Assessment.

7.2. *Compliance with Rural Housing Policy*

- 7.2.1. The site is located within the Metropolitan Greenbelt Area of Cork city. Policy RCI 5-2 and RCI5-3 generally aim to prevent urban sprawl and retain the open and rural character of rural areas and the protection / enhancement of biodiversity of those lands that lie within it. Policy 5-4 notes that allowing exceptions to greenbelt polices would give rise to the incremental erosion of the greenbelt.
- 7.2.2. The Planning Authority's first reason for refusal, states that the proposed development would not be in accordance with the Development Plan policies RCI 4-1, which require the applicant to demonstrate an exceptional rural generated housing need based on their social/economic links to a particular rural area. They must demonstrate that they comply with one of the categories listed on (a) to (d) set out within the Development Plan. The appellant has not demonstrated that she is the daughter of a farmer nor taking over the running of a family farm so therefore categories (a) to (c) are not applicable. I am not satisfied that the applicant would comply with Category (d) of the policy either, given the appeal site is removed from the principal family home and would result in the development of a third dwelling on family lands.
- 7.2.3. This policy gives consideration to a nearby land holding that would not conflict with specific objective GI-8 of the Development Plan or any other policies or objectives of the Plan. Nearby land holding has been defined within the Rural Housing sub-committee internal document as holdings not normally more than 1.5 Kilometres from the prospective applicant's family residence. This document acknowledges that

there may be exceptional circumstances beyond the 1.5 kilometres which can be dealt with on a case by case basis. The appeal site is located approximately 2.5 kilometres distant from the family home and would not therefore come within the scope of the nearby land holding as defined in the said document.

- 7.2.4. The Sustainable Rural Housing Guidelines defines 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 may 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 and should have regard to the viability of smaller towns and rural settlements.
- 7.2.5. The appeal site forms part of a larger site with an overall area of approximately 0.4 hectares. It is stated that these lands were purchased in the 1978 by the applicant's father. The overall lands do not relate to any agricultural landholding. The family holding comprises two sites, one adjacent to the family home and the appeal site. The proposed development would result in the sub-division of her brother's site to accommodate the proposed house. Information submitted in support of the application states that the applicant wishes to remain resident in the local area to help her widowed mother.
- 7.2.6. It is stated that the applicant has lived in the local area for 39 years. However, it is considered that she has not demonstrated an exceptional rural housing need based on her specific economic or social links to reside in the Kilnaglory area, as required under Policy Objective RCI 4-1 of the Development Plan, the Sustainable Rural Housing Guidelines and Policy Objective 19 of the National Planning Framework. It is my view, that the proposal would also contravene policies RCI 5-2, RCI 5-3 and RCI 5-4 relating to development within the Metropolitan Greenbelt Area.
- 7.2.7. In the absence of an identified locally based, site specific economic or social need to live in the area, it is considered that the proposed development would contribute to the development of random rural housing in the area, exacerbate the existing pattern

of ribbon development and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of the adjacent urban settlements of Ballincollig and Cork City.

7.3. ***Density of Development***

- 7.3.1. The Planning Authority's second reason for refusal indicates that the proposed development, taken in conjunction with existing development in the area, would represent an excessive density of development in a landscape which has limited assimilative capacity, would establish an undesirable precedent and conflict with specific rural and green infrastructure objectives within the Development Plan. I am satisfied that this landscape has a limited assimilative capacity given its development pressure status, but as the proposals constitute an infill site, the issue of density of development is not considered to arise in this particular instance
- 7.3.2. However, the appeal site is very elevated, approximately five metres above the level of the adjoining public road. The site is identified as being within an area of high landscape value and sensitivity, of county level importance in the Development Plan. It is considered that these landscapes are vulnerable and can accommodate limited development only. Having regard to the elevated nature of the proposed dwelling and the sensitive nature of the landscape, and the provisions of policy objective RCI 6-1 of the Development Plan. I am satisfied, that the proposed development would contribute further to the erosion of the rural landscape character of the area.

7.4. **Other Issues:**

- 7.4.1. A Site Characterisation Report has been submitted which states that the bedrock is of sandstone/mudstone overlaid by till soils. The site assessor recommends that close attention be given to separation distances given the concentration of individual wastewater treatment systems/bored wells in the area. The trial hole noted the existence of silts/clays to a depth of 2.1 metres, the water table nor bedrock were not encountered. A t-value of 23.92 was recorded. The assessor recommended the installation of a packaged wastewater treatment system and polishing filter and that 36 metres of percolation pipes be laid out.

7.4.2. No site-specific details of a wastewater treatment system have been recommended and no drawings showing where the treatment system/percolation area would be located on site, demonstrating the required minimum separation distances stipulated by the Environmental Protection Agency, have been submitted. Details such as construction drawings/cross/long sections, existing/proposed ground levels, invert levels, pipe sizes and gradients or details of materials to construct the percolation area have not been submitted. In the event that the Board are mindful to grant planning permission in this instance, further information could be requested whereby these details could be submitted to the satisfaction of the Board.

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**

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

9.0 **Reasons and Considerations**

1. The subject site is located within a 'Metropolitan Greenbelt' which is an area under the most significant pressure for rural housing, as identified in the Cork County Development Plan 2014. Furthermore, the site is located in an area that is designated as under urban influence in the Sustainable Rural Housing Guidelines and in the National Planning Framework, where National Policy Objective 19 aims 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. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has demonstrated an exceptional housing need to live in this rural area as required

under policy objective RCI 4-1 of the Development Plan. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Cork County Development Plan, 2014 or in national policy for a house at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by virtue of its elevated nature, would contribute further to the erosion of the rural landscape character of an area with limited capacity to assimilate further development and would conflict with policy objective RCI 6-1 of the County Development Plan 2014. The proposed development would establish an undesirable precedent for similar development in the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

Fergal O'Bric
Planning Inspector

22nd January 2020