



An
Bord
Pleanála

Inspector's Report ABP-306098-19

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| Development | Retention of change of use of storage unit to residential unit |
| Location | Maulnakeha, Drimoleague, County Cork |
| Planning Authority | Cork County Council |
| Planning Authority Reg. Ref. | 19/630 |
| Applicant(s) | Lavinia Scheja |
| Type of Application | Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party |
| Appellant(s) | Lavinia Scheja |
| Date of Site Inspection | 3 rd March 2020 |
| Inspector | Kevin Moore |

1.0 Site Location and Description

- 1.1. The site of the proposed development is located in a rural area approximately 4km south of the village of Drimoleague in County Cork. It is immediately to the north of the junction of the Drimoleague to Skibbereen Road (R593) and Local Road L-8279. There is a commercial storage park on the site of a former creamery building. There are two storage buildings, one of which has been partially converted at ground and first floor levels to form a one bedroom residential unit. Other development in the vicinity includes sporadic housing.

2.0 Proposed Development

- 2.1. The proposed development would comprise the retention of the change of use of part of a storage unit building in a commercial storage park from a storage unit to a residential unit for the use of the facility manager. The gross floor area of that part of the two-storey building seeking retention on the 0.26 hectare site is stated to be 71.77 square metres and provides a one bedroom unit. The development is served by an existing bored well and waste water treatment plant.

3.0 Planning Authority Decision

3.1. Decision

On 12th November 2019, Cork County Council decided to refuse permission for the proposed development for five reasons relating to incompatibility with the established use on the site, the proposal constituting a substandard form of residential development, undesirable precedent that would be set, contravention of a condition of a planning permission, and failure to demonstrate a rural generated housing need.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted development plan policies, the site's planning history and the Area Engineer's report. Reference was made to limited natural lighting to the unit, amenity / noise and disturbance given the adjoining storage units, impact on

residential amenity, conflict with plan policy relating to rural generated housing need, and the poor planning precedent that would be set. A refusal of permission was recommended.

The Senior Planner concurred with the Planner's recommendation.

3.2.2. Other Technical Reports

The Area Engineer had no objection to the proposal and set out a schedule of conditions.

The Liaison Officer stated "No comment."

4.0 Planning History

P.A. Ref. 16/486

Permission was granted by the planning authority for the change of use of old creamery buildings to 4 storage units for letting, alterations and extensions to existing buildings, erection of perimeter fencing and gates, and the installation of a sewage treatment system.

5.0 Policy Context

5.1. Cork County Development Plan

Rural Housing

Objectives include:

RCI 2-2: Rural Generated Housing

Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community.

Rural Area Type

The site is located within a designated 'Transitional Rural Area'.

Objectives include:

RCI 4-5: Transitional Rural Area

These rural areas are more distant from the major urban areas and the associated pressure from urban generated housing and exhibit characteristics of a weaker economic structure. Although, there are lower concentrations of population, there is a more stable population base and less evidence of persistent population decline than other parts of the County. Therefore, in order to adopt a positive approach to facilitating the genuine rural generated housing needs of the local community based on their social and / or economic links to a particular local rural area, it is an objective that applicants must demonstrate that their proposal complies 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)** 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.
- d)** Persons working fulltime in farming, forestry, inland waterway or marine related occupations, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.
- e)** Persons whose predominant occupation is farming / natural resource related, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.
- f)** Persons whose permanent employment is essential to the delivery of social and community services and intrinsically linked to a particular rural area for a period of over three consecutive years and who can demonstrate an economic and social need to live in the local rural area where they work, within which it is proposed to build a first home for their permanent occupation.
- g)** 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.

Rural Economy

Objectives include:

EE 9-1: Business Development in Rural Areas

The development of appropriate new businesses in rural areas will normally be encouraged where:

- The scale and nature of the proposed new business are appropriate to the rural area, and are in areas of low environmental sensitivity.
- The development will enhance the strength and diversity of the local rural economy,
- The proposal will not adversely affect the character and appearance of the landscape,
- The existing or planned local road network and other essential infrastructure can accommodate extra demand generated by the proposal,
- The proposal has a mobility plan for employees home to work transportation,
- Where possible the proposal involves the reuse of redundant or underused buildings that are of value to the rural scene;
- The provision of adequate water services infrastructure; and
- Provision of a safe access to the public road network (See Objective TM 31: National Road Network (c) and (d)).

5.2 Appropriate Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the separation distance to 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.

5.3 EIAR Screening Determination

Based on a preliminary examination of the nature, size and location of the development there is no real likelihood of significant effects on the environment and EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- The facility has permission for a storage facility for letting purposes and the most efficient method of managing the facility is for the manager to reside on the site. The change of use makes the facility more viable from a commercial viewpoint and from a security point of view. The unit is separated internally from the storage unit and complies with fire safety requirements. The internal party walls are sound proof.
- The internal layout provides a high standard of accommodation, with windows and rooflights providing light and ample external space for outdoor amenity space / facilities. The unit is highly insulated, ventilated and heated.
- The applicant would have no desire or plan to convert any of the remaining units to residential use.
- There would be no new precedent as it is very common that the owner of a small business would live within or near the premises from which they operate. This applies to many businesses historically in rural areas and villages.
- The appellant questions the validity of the reason for refusal relating to the previous decision on the site as the incorrect reference number was given.
- The applicant's family injected significant money to bring the building back to life and this would fall under the category of "rural diversification". The future viability of the facility could be dependent on having a residential element within the property.

6.2. Planning Authority Response

The planning authority confirmed that the reference to 06/486 was a typing error and should have read 16/486. It was submitted that the planning authority stands by its refusal.

7.0 Assessment

7.1. Introduction

7.1.1 I consider that the significant planning issues relate to the standard of residential accommodation provided, the precedent, contravention of a planning condition, and the rural housing need.

7.2. Standard of Residential Accommodation

7.2.1 I first note that I did not gain entry into the residential unit at the time of my site inspection but rather reviewed the building and its context externally. However, I accept the *bona fides* of the appellant's submitted photographs of the internal layout of the residential unit.

7.2.2 It is my submission to the Board that the siting of a residential unit within a holding where the principal land use is effectively of a light industrial nature is not desirable where amenities beyond the internal space of the unit cannot function adequately to serve the occupant's needs and where the potential incongruent nature of light industrial activities associated with commercial storage is likely to impinge on the quality of life to be expected for a resident. In principle, the residential unit is an incompatible use amidst the main light industrial use.

7.2.3 I acknowledge the provisions that the appellant has informed the Board have been made to ensure the residential unit is not impeded by the principal activities on the site, i.e. insulation, ventilation, compliance with fire safety regulations, etc. It remains, however, an integral part of the main storage building on the site, sited at the north-east end of the block where sunlight into the unit is extremely limited, with the main living area at ground floor level poorly provided for in terms of windows providing sunlight and daylight, no provision for storage internally, and where there is a lack of any amenity space beyond the building that could be viewed as being functional

private amenity space. It is apparent that the proposed development could not be viewed as meeting a reasonable standard of accommodation for residential occupants of this unit on any permanent basis.

7.3. Precedent

7.3.1 It is my submission to the Board that the proposed development would not necessarily create a precedent that established light industrial development would likely follow. The appellant makes a valid point that it can be common for owners of small businesses to live within or near their premises. A residential unit on this site, comprising a dry storage facility, would not likely undermine this light industrial use in a manner that would erode its function in the remaining units, where it is intended that the occupant would be the facility manager. Clearly storage could continue within the buildings.

7.4. Contravention of a Planning Condition

7.4.1 Planning Permission 16/486 relates to the parent permission for the change of use of the creamery buildings to the storage units on this site. Condition 2 of that permission was as follows:

“2 *The building(s) the subject of this permission shall be used solely for commercial letting for storage and a change of use of this use shall not take place without benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended.*

Reason: *In the interests of amenity, road safety and the proper planning of the area.”*

7.4.2 The current application before the Board seeks planning permission for the retention of a change of use. While a planning application seeking a planning permission may be viewed as meeting with the requirements of Condition 2 of this parent permission, it is clear that a change of use has already occurred without the benefit of a planning permission. Therefore, the inclusion of this reason by the planning authority may be considered reasonable in this instance.

7.5. Rural Housing Need

7.5.1 The site is located within a designated 'Transitional Rural Area' in the current Cork County Development Plan. It is an objective that applicants seeking permission for a house within this area demonstrate that their proposal complies with one of a number of categories of housing need (Objective RCI 4-5). Having regard to the categories scheduled, I note the following:

- The applicant is not a farmer or a daughter who wishes to build a first home for her permanent occupation on the family farm.
- The applicant is not a person taking over the ownership and running of a farm on a fulltime basis, who wishes to build a first home on the farm for her permanent occupation, where no existing dwelling is available for her own use.
- The applicant is not a person who has spent a substantial period of her life (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 applicant is not a person working fulltime in farming, forestry, inland waterway or marine related occupations, for a period of over three years, in the local rural area where she works and in which she proposes to build a first home for her permanent occupation.
- The applicant is not a person whose predominant occupation is farming / natural resource related, for a period of over three years, in the local rural area where she works and in which she proposes to build a first home for her permanent occupation.
- The applicant is not a person whose permanent employment is essential to the delivery of social and community services and intrinsically linked to a particular rural area for a period of over three consecutive years and who can demonstrate an economic and social need to live in the local rural area where she works, within which it is proposed to build a first home for her permanent occupation.
- The applicant is not a returning emigrant who spent a substantial period of her life (i.e. over seven years), living in the local rural area in which she proposes

to build a first home for her permanent occupation, who now wishes 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.

7.5.2 It is evident from the above that the appellant's proposal does not comply with any of the categories of housing need provided for within the County Development Plan as they relate to 'Transitional Rural Areas'.

7.5.3 Further to the above, I note the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities*. Reference is made therein to strengthening rural villages and towns to assist in mitigating excessive levels of pressure for urban generated development in rural areas. Defining persons considered as constituting those with rural generated housing needs is recommended to be part of the process for determining planning applications for houses in rural areas, with examples given of 'persons who an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'. The County Development Plan to some degree in Objective RCI 4-5 has sought to mirror the categories of housing need set out in the Guidelines. It is apparent that the applicant's proposed housing need does not tie-in in a meaningful manner with the Guidelines' provisions, where a strong emphasis is placed on association with traditional rural activities (i.e. farming, forestry, natural resources, etc.) and on family links with the rural area in which it is proposed to build a house. Thus, it may reasonably be concluded that the proposal does not expressly demonstrate a rural generated housing need in a manner that could be seen to reflect the provisions of the Guidelines.

7.5.4 In conclusion, it may reasonably be determined that the appellant's housing need may be best met within the many settlements in close proximity to this rural area, where public investment in infrastructure has been, and continues to be, made to provide for serviced residential development and where social, economic and community needs can best be met.

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 location of the site within a rural area designated a Transitional Rural Area in the Cork County Development Plan 2014, to the categories of housing need provided for within the Plan for such areas, and to the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* relating to rural generated housing need, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Development Plan and Guidelines for a residential unit at this rural location. The proposed development, in the absence of any identified locally based need for the residential unit, 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 rural policy provisions of the Cork County Development Plan and the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the siting of the proposed development within a structure comprising commercial storage uses and the incompatibility of these uses with residential use, the orientation and layout of the residential unit and the associated limited fenestration provisions, and the lack of internal storage and external private amenity space, it is considered that the proposed development would provide a substandard form of accommodation for the occupants of the residential unit and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development would contravene materially a condition attached to an existing permission for development, namely condition number 2

attached to the permission granted by Cork County Council under planning register reference number 16/486. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

9th March 2020