



An
Bord
Pleanála

Inspector's Report

ABP-306278-19

Development	Construction of a dwelling and installation of sewage treatment system.
Location	Killaminogue, Inishannon, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/6401
Applicant(s)	Darren and Rosie Linham
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	Anne Kelleher Damian and Kerry Coleman
Observer(s)	None
Date of Site Inspection	2 nd March 2020
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site is in the rural townland of Killaminoge, approximately 4km east of Innishannon and 16km southwest of Cork City. The surrounding landscape is primarily one of undulating rural countryside with intermittent instances of one-off housing and agricultural outbuildings. The prevalence of one-off rural housing gradually increases on the approach to the nearby settlement of Innishannon.
- 1.2. The site itself has a stated area of 0.21 hectares, is rectangular in shape, and comprises two shipping / freight containers, a concrete built shed, trailers, various structures associated with the keeping of animals including poultry, pigs and dogs. To the immediate north-east and north-west of the site are agricultural lands; the public road is to the southeast; the site to the southwest is occupied by a single storey dwelling. The site is bounded by timber post and wire fencing to the northeast and northwest whilst the roadside boundary comprises more substantial timber fencing with the remaining south-western site boundary being defined by a blockwork wall and some metal sheeting.

2.0 Proposed Development

- 2.1. The proposed development would consist of the construction of a single storey dwelling house with a stated floor area of 194.29m² and a ridge height of 5.416m. The overall design of the proposed dwelling house is based on a conventional interpretation of the traditional 'cottage' vernacular and utilises an elongated 'L'-shaped construction with a narrow plan depth and vertically emphasised fenestration. External finishes include blue / black roof slates, smooth plaster, and hardwood doors and windows.
- 2.2. Access to the site would be obtained directly from the adjacent public road to the immediate southeast via an upgrading of the existing entrance arrangement. It is proposed to install a wastewater treatment system and soil polishing filter whilst a water supply will be obtained from an existing private bored well.
- 2.3. Unsolicited further information was submitted to the Planning Authority on the 7/11/2019 and the 22/11//2019 and/or as a response to a third-party observation. This information included: A supplementary Planning Application; A justification

report supporting the applicant's rationale to live in the rural area; A map which also details the various locations the family have resided in since 2007, in relation to the appeal site. This information did not result in any alterations to the proposed site layout or dwelling.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was granted subject to seven standard conditions.

Planning Reports

The Planning Officer noted the previous A Bord Pleanála refusals on this site and recommended a grant of planning permission.

3.1.1. ***Other Technical Reports***

- Area Engineer: No objection, subject to conditions.

3.2. **Prescribed Bodies**

- None

3.3. **Third Party Observations**

3.3.1. During consideration of the application by the Planning Authority, submissions were received from two residents, who reside immediately south of the appeal site, on the opposite side of the county road. The issues raised in the submissions are similar to those raised in the grounds of appeal and are summarised within the grounds of appeal set out below.

4.0 **Planning History**

3.1 On Site:

Planning Authority reference number. 16/4817, An Bord Pleanála reference number. PL04.246550. Permission was refused on appeal on 14th September 2016 to Darren

and Rosie Linham for the construction of a dwelling house, installation of a small treatment plant and associated site works. The reason for refusal was as follows:

- The proposed development would be located within an Area Under Strong Urban Influence as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005 and in the current development plan for the area, where it is the policy of the planning authority to discourage urban generated housing and to seek to locate such housing in the larger urban centres or the towns, villages and other settlements identified in the Settlement Network. The proposed development would further erode the rural character of this area and would lead to demands for the provision of further public services and community facilities and would be contrary to the said Ministerial Guidelines. The proposed development, by itself and by the precedent it would set for other houses in this area would, therefore, be contrary to the proper planning and sustainable development of the area.

Planning Authority reference number. 14/5545, An Bord Pleanála reference number. PL04.244526. Permission was refused on appeal on 30th June 2015 to Darren and Rosie Linham for the construction of a dwelling house, installation of a small treatment plant and associated site works for the same reason as was used under PL 04.246550.

Planning Authority reference number 13/6514, An Bord Pleanála reference number PL04.243428. Permission was granted on appeal on 1st October 2014 permitting Darren and Rosie Linham retention of a storehouse and permission for the construction of 2 No. stables and 1 No. tack room, and the erection of a timber palisade fence on the western boundary of the site, and associated site works

Planning Authority reference number. 07/8470. Permission was refused on 1st August 2007 to Michael O'Connell for the demolition of two sheds and construction of two No. sheds for the storage of building materials.

Planning Authority reference number 04/4567. Permission was refused on 16th August 2004 to Davina McCarthy & Raymond Keane for the construction of a dwelling house and garage.

Planning Authority Reference number. 01/4374, An Bord Pleanála reference number PL04.127009. Permission was refused on appeal on 16th April 2002 to Michael Mehigan for a development comprising demolition of existing sheds and erection of a dwelling.

5.0 Policy and Context

5.1. *Cork County Development Plan, 2014*

Chapter 4: Rural, Coastal and Islands:

RCI 1-1: Rural Communities:

Strengthen rural communities and counteract declining trends within the settlement policy framework provided for by the Regional Planning Guidelines and Core Strategy, while ensuring that key assets in rural areas are protected to support quality of life and rural economic vitality.

RCI 2-1: Urban Generated Housing:

Discourage urban-generated housing in rural areas, which should normally take place in the larger urban centres or the towns, villages and other settlements identified in the Settlement Network.

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.

Section 4.3: Identifying Rural Area Types:

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.

Section 4.4: Categories of Rural Generated Housing Need:

Section 4.4.2: This plan recognises the positive benefits for rural areas to sustain and strengthen the vibrancy of rural communities by allowing qualifying applicants to build a first home for their permanent occupation in a 'local rural area' to which they have strong economic or social links as defined in the following objectives RCI 4-1 to RCI 4-5. The meaning of 'local rural area' is generally defined 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.

Chapter 13: Green Infrastructure and Environment:

Section 13.5: *Landscape*

Section 13.6: *Landscape Character Assessment of County Cork*

GI 6-1: Landscape:

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land use proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

GI 6-2: Draft Landscape Strategy:

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

Section 13.7: *Landscape Views and Prospects:*

GI 7-1: General Views and Prospects:

Preserve the character of all-important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance (including

buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

The site is 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 6-1: Design and Landscaping of New Dwelling Houses in Rural Areas.
- RCI 6-2: Servicing Individual Houses in Rural Areas.

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

Two third party appeals against the Planning Authority's decision to grant permission has been submitted. The main issues raised within the appellants submissions relate to the following:

- There has been no policy change since the two previous refusals of permission on this site by An Bord Pleanála.
- The applicants have failed to demonstrate compliance with the Rural Housing Policy set out within the Cork County Development Plan.
- The planning application is not in accordance with National Planning Policy regarding rural housing.

- The applicants have not established a rural housing need and do not meet the criteria for building a first home in the countryside.
- The applicant's employment ties to the site/rural area are tenuous as Mr Linham is a lorry driver for a local co-op who are based in the urban settlements of Bandon and Kinsale. Mrs Linham has only enquired about enrolling on an agricultural course which to date has not commenced.
- The applicants have failed to demonstrate full-time occupation in agricultural activities.
- The applicants previously owned a home in England and therefore cannot comply with the Rural Housing Policy regarding seeking to build a first home.
- They have failed to comply with the conditions of their planning on site set down by An Bord Pleanála regarding the types of animals permitted to be kept on site.
- That an enforcement file on this site regarding the development of a bored well exists and the applicants have not addressed this unauthorised development.
- That the planners report is subjective in its assessment and makes no reference to non-compliance with planning conditions or unresolved enforcement matters on site.
- The adjoining public road is narrow, and the area has experienced significant development pressure from the development of rural one-off dwellings.

6.2. Applicants Response

- The applicants acknowledge that this area is under pressure from urban workers, commuting to the city.
- All their social and economic activity takes place in rural areas.
- Mrs Linham treats horses in the rural areas and Mr Linham delivers animal feed to rural farms. They are ideally placed to service the local market town of Kinsale with their free-range pork product.
- If they were to reside in an urban area, it would mean they would have to commute to the rural area of Killaminogue to tend to and feed the animals. The

documentation which has been submitted and witnessed by a solicitor demonstrating Mrs Linhams involvement in the equine industry.

- Applicants satisfied that they have demonstrated compliance with criteria (d) of policy RCI 4-2 of the Cork County Development Plan 2014-2020.
- The Planning Authority were satisfied that the proposals do not constitute ribbon development and no other planning constraints arise either.
- They are seeking to become high-welfare and high-quality pork producers.
- It is stated that the applicants have a genuine rural housing need in accordance with the Development Plan provisions and that they have resided in the Killaminogue area since 2007.

6.3. **Planning Authority Response**

No additional comments were received from the Planning Authority.

7.0 **Assessment**

7.1. The applicants design, layout, access and wastewater proposals are satisfactory. The main issues in this appeal relate to the reasons for refusal, in this regard compliance with the Cork Rural Housing Policy and development pressure. 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.
- Development Pressure and related matters
- Appropriate Assessment.

7.2. ***Compliance with Rural Housing Policy***

7.2.1. The site is located within a Rural Area under Strong Urban Influence. The applicants are required to demonstrate compliance with Development Plan policies RCI 4-2, which require the applicant to demonstrate a genuine rural generated housing need based on their social/economic links to a rural area. They must demonstrate that they

comply with one of the categories listed on (a) to (e) set out within the Development Plan. The appellants have not demonstrated that they are a son/daughter of a farmer nor taking over the running of a family farm so therefore categories (a) to (b) are not applicable. I am not satisfied that the applicants have demonstrated that they are involved in full time occupation in farming by virtue of their employment details provided within the Supplementary planning application form. I am also not satisfied that they would comply with Category (d) of the policy either, given that it is stated that they previously owned a residential property in the UK, since disposed of, so therefore the current proposals could not be described as a first home. They would not fall under the returning emigrant's policy category, given that neither party are originally from this area.

7.2.2. 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 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.

7.2.3. The overall lands do not relate to any agricultural landholding. It is stated that the applicants have lived in the local area since 2007. However, it is considered that they have not demonstrated a genuine rural housing need based on their specific economic or social links to reside in the Killaminogue area, as required under Policy Objective RCI 4-2 of the Development Plan, the Sustainable Rural Housing Guidelines and Policy Objective 19 of the National Planning Framework.

7.3. **Development Pressure and related matters**

7.3.1. In the absence of an identified genuine 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 with limited capacity to assimilate further 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 Inishannon and Bandon.

7.4. *Appropriate Assessment*

- 7.4.1. 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.

9.0 Reasons and Considerations

1. The subject site is located within an area under strong urban influence which is an area under 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 applicants have demonstrated a genuine housing need to live in this rural area as required under policy objective RCI 4-2 of the Development Plan. It is considered, therefore, that the applicants do 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, when taken together with existing dwellings in the vicinity, would represent an excessive density of development in a landscape with limited capacity to assimilate further development, 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

9th March 2020