



An  
Bord  
Pleanála

## Inspector's Report ABP-306900-20

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<b>Development</b>	Demolition of former creamery and construction of a dwelling, vehicular entrance and installation of a wastewater treatment unit.
<b>Location</b>	Gortroche, Ballyhooly, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	19/5627
<b>Applicant(s)</b>	Janis Versis
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party V. Refusal
<b>Appellant(s)</b>	Janis Versis
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12th day of June 2020
<b>Inspector</b>	Fergal O'Bric

## 1.0 Site Location and Description

- 1.1. The appeal site is located within the rural townland of Gortroche, approximately eight hundred metres south-east of the village of Ballyhooly and eight kilometres west of Fermoy. The surrounding landscape is primarily one of undulating rural countryside with intermittent instances of one-off housing and agricultural outbuildings.
- 1.2. The site itself has a stated area of 0.32 hectares, is rectangular in shape, and comprises two dis-used creamery buildings. The western, northern and north-western boundaries of the site are defined by mature trees, a low stone wall and planting to the south, and post and wire fencing to the east. The public road is to the south, a watercourse (Millvale stream) to the south-west and to the south-east are a number of agricultural structures. There are two sets of double access gates to the site from the public road.

## 2.0 Proposed Development

- 2.1. The development would comprise of the demolition of two dis-used creamery buildings on site and for the construction of a two-storey dwelling house with a stated floor area of three hundred and thirty two square metres and a ridge height of nine metres. The overall design of the proposed dwelling house is based on a contemporary interpretation of the traditional two-storey farmhouse dwelling, however with a wide plan form and vertically emphasised fenestration within horizontal shaped window opes. External finishes would include blue/black roof slates/tiles and smooth plaster.
- 2.2. Access to the site would be obtained directly from the adjacent public road via an existing entrance arrangement which would be upgraded. It is proposed to install a wastewater treatment system and soil polishing filter whilst a water supply would be obtained from a connection to the watermains.
- 2.3. Further information was submitted to the Planning Authority on the 21<sup>st</sup> day of January 2020. This information included: A completed supplementary planning application form; Entrance details, a sightline drawing and boundary treatment details at the entrance point. Details of surface water management and of the proposed on-site wastewater treatment system and cross sections of the proposed

wastewater treatment system illustrating existing and proposed ground levels. This information did not result in any alterations to the proposed site layout or dwelling design.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission was refused for one reason as follows:

1. The subject site is located within a Stronger Rural Area, where it is the policy of the Planning Authority, as set out within RCI 4-4 of the Cork County Development Plan 2014, to restrict rural housing development to certain limited categories of applicants and it is an objective that applicants shall satisfy the Planning Authority that their proposals constitute a genuine rural generated housing need based on their social and/or economic links to a particular local rural area. On the basis of the information submitted, the Planning Authority is not satisfied that the proposed dwelling is intended to serve a rural generated housing need in accordance with RCI 4-4 the Cork County Development Plan 2014. The proposed development would, therefore, be contrary to the objective 4-4 of the Cork County Development Plan 2014 and would be contrary to the proper planning and sustainable development of the area.

#### ***Planning Reports***

The Planning Officer noted the previous grant of planning permission pertaining to the appeal site in 2007 for the construction of two dwellings on the site under the provisions of a previous Development Plan, but recommended a refusal of planning permission in this instance as set out in Section 3.1 above.

#### **3.1.1. *Other Technical Reports***

- Area Engineer: No objection, subject to conditions.
- Liaison Officer: No objection.

### 3.2. **Prescribed Bodies**

None.

### 3.3. **Third Party Observations**

None received.

## 4.0 **Planning History**

### 4.1. On Site:

Planning Authority reference number. 07/6004, in 2007, planning permission was granted to Orca Developments for the demolition of former creamery buildings and for the construction of two dwelling houses and proprietary treatment units. No development works commenced on foot of this permission and that planning permission expired in 2012.

## 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 4-4: Stronger Rural Area.

It is an objective that applicants shall 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) Persons whose predominant occupation in 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.

#### 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 the Fertile Plain with Moorland Ridge Blackwater River Valley ((Area 5) in Landscape Character Assessment (Appendix E) of the Plan. These locations are designated as areas having a very high landscape value and sensitivity, of county importance, 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 (as updated in 2010 and 2014) 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 planning permission has been received. The main issues raised within the appellant submission relate to the following:

- The appeal site is a brownfield one, has been dis-used for some time and has been deteriorating and subject to anti-social behaviour until being recently tidied up.
- Planning permission was previously granted on this site for two dwellings in 2007.
- The appellant is seeking to build a family home for his young family, does not presently own a dwelling and never received planning permission for a dwelling.
- The appellant purchased the property based on the planning history associated with the site.
- The appellant has family ties within the adjacent settlements of Rathcormac and Fermoy and the appellant is seeking to reside in proximity to his family members.
- The proposals would rejuvenate a property that is presently an eyesore and was described as brownfield in the 2007 planning report.

### **6.2. Planning Authority Response**

No additional comments in relation to the appeal were received from the Planning Authority.

## 7.0 **Assessment**

7.1. The proposed layout, access and wastewater proposals are considered satisfactory. The main issues in this appeal relate to the reason 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 Strong Rural Area as set out within the Development Plan. The applicant is required to demonstrate compliance with Development Plan policies RCI 4-4, which require the applicant to demonstrate a genuine rural generated housing need based on his social/economic links to a rural area. He must demonstrate that he complies with one of the categories listed (a) to (g) within the Development Plan.

7.2.2. The appellant has not demonstrated that he is a son/daughter of a farmer nor taking over the running of a family farm, therefore, categories (a) or (b) are not applicable. I am not satisfied that the applicant has demonstrated that he is involved in full time occupation or predominantly in farming/rural related activities as set out in categories (c) and (e), by virtue of his employment details provided within the supplementary planning application form, submitted as part of the further information response. Nor am I satisfied that he would comply with Category (d) of the policy either, given that he has stated that he has not resided within the local rural area where the site is situated within the supplementary planning application form. Neither has the applicant demonstrated that his employment is essential to the delivery of social and community services and intrinsically linked to the Ballyhooly area, and therefore, would not comply

with category (f) of the policy. He has not demonstrated that he would fall within the returning emigrant's policy category, given that he has not demonstrated that he is originally from the Ballyhooly area.

7.2.3. 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 demonstrable economic or social need to live in the rural area and should have regard to the viability of smaller towns and rural settlements.

7.2.4. The overall lands do not relate to any agricultural landholding. It is stated that the applicant has not resided within the local area. Therefore, It is considered that he has not demonstrated a genuine rural housing need based on his specific economic or social links to reside in the Ballyhooly area, as required under Policy Objective RCI 4-4 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, 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 Ballyhooly and Fermoy.

### 7.4. **Other Matters**

7.4.1. Although not used as a reason for refusal by the Planning Authority, I would not be satisfied that the proposed design would accord with the provisions of the Cork Rural Design Guide, given the excessive scale, bulk and massing of the proposed dwelling. The non-site-specific design and over-complex form which incorporates

excessive roof profiling and an attached double garage joined onto the front elevation would not contribute positively to the local rural landscape, designated as being of a very high value. I consider it appropriate that an additional reason for refusal be included in relation to the non-site-specific dwelling design and over-complex form proposed in this instance and being contrary to the provisions of the Cork Rural House Design Guide.

## 7.5. ***Appropriate Assessment***

- 7.5.1. 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 applicant has demonstrated a genuine housing need to live in this rural area as required under policy objective RCI 4-4 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 It is considered that, by reason of its height, design, bulk and massing and over-complex form that the proposed two-storey house would be visually obtrusive in this rural area and would be contrary to the provisions of the Cork Rural Design Guide.. The proposed house would, therefore, be contrary to the proper planning and sustainable development of the area.

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Fergal O'Bric  
Planning Inspectorate

15th June 2020