



An  
Bord  
Pleanála

## Inspector's Report ABP-307101-20

---

<b>Development</b>	Bungalow and wastewater treatment unit
<b>Location</b>	Kerries East, Tralee, County Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	20/155
<b>Applicant(s)</b>	Tricia O'Connor
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Tricia O'Connor
<b>Date of Site Inspection</b>	15 <sup>th</sup> July, 2020
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

1.1. The 0.25 hectare site is located to the west of the town of Tralee in County Kerry. It comprises land to the side and rear of a dwelling located close to the public road to the south. There is an open field to the east of the site and there is extensive residential development all around fronting onto the public roads. The site has narrow frontage onto a public road to the south. The location for the proposed access driveway would be to the west of the existing house on the overall plot and would run parallel to the flank of an existing residential property to the west as far as the northern part of the site where the main plot for the house and treatment system would be located. This northern part of the site is slightly more elevated. A small section of the site at its north-western end adjoins the cul-de-sac end of another road serving detached houses, 'Golf Course Road'. The site is generally bounded by hedgerow.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the construction of a three bedroom bungalow and the installation of a waste water treatment unit. The house would have a stated floor area of 88.06 square metres and would be served by a mains water supply.
- 2.2. Details submitted with the application included a site assessment for the proposed wastewater treatment system and a report on the proposed entrance, sight distances, and rainwater disposal. A covering letter addressed matters relating to the site's planning history and a further submission identified the applicant's family associations in the area.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 16<sup>th</sup> April 2020, Kerry County Council decided to refuse permission for the proposed development for three reasons relating to backland development and injury to residential amenity, traffic hazard, and lack of rural housing need.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planner noted the site's planning history, development plan provisions, and reports received. It was noted that the site is within an area designated an area under strong urban influence. Given the elevated nature of the site, it was considered the development would have a significant negative visual impact and would set an undesirable precedent. It was submitted that the proposal constituted backland development notwithstanding development in the vicinity. It was considered that traffic concerns remained and that the proposal would have a significant negative impact on the residential amenity of the occupants of the house to the front of the proposed house. The proposal was seen to be urban generated. A refusal of permission for three reasons was recommended.

### 3.2.2. Other Technical Reports

The Site Assessment Unit requested further information because there was conflicting information in the submitted trial hole logs in the Site Characterisation Form.

The Roads Technician requested further information in the form of a detailed layout drawing of the proposed entrance.

## 3.3. Prescribed Bodies

Irish Water had no objection to the proposal. It was noted that, due to the long length of the service connection from the public road, water pressure would be reduced dramatically and it was submitted that the applicant may have to boost water pressure.

## 4.0 Planning History

P.A. Ref. 991627

Permission was granted in 1999 for an entrance, dormer dwelling and septic tank.

P.A. Ref. 08/1470

Permission was refused for a dwelling and an effluent treatment system.

## 5.0 Policy Context

### 5.1. Kerry County Development Plan

#### 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.

Table 3.7 of the Plan comprises the amenity zoning settlement policy. It is a requirement within an area designated 'Rural General' that a proposed dwelling is used as a permanent place of residence.

#### Rural Settlement

The site is located within an area designated a Rural Area under Strong Urban Influence. The Plan objectives relating to this rural area include:

RS-7: Ensure that favourable consideration is given to individual one-off house developments for immediate family members (sons, daughters or favoured niece/nephew) on family farms and land holdings; subject to compliance with normal planning criteria and environmental protection considerations.

RS-9: Facilitate the housing requirements of the rural community as identified while directing urban generated housing into the towns and villages.

## 5.2. **Appropriate Assessment**

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 synthesised as follows:

- It is difficult to see how the proposal could be called backland development since there is already substantial development in the background of the subject site. It could not be seen to set an undesirable precedent. It is fairer to treat it as infill or a vacant site. The simply designed bungalow could not be regarded as disorderly development. There was no objection by any of the neighbours. The applicant's uncle who lives in the house forward of the proposed house considers the proposal would not injure the residential amenities of his house.
- The proposed access is well inside the 50km speed zone and once trees and roadside fence are removed sightlines of 162m to the west and 152m to the east are available. A drawing is attached showing same.
- The applicant's family come from the townland and still reside there. The applicant resides in the neighbouring townland and wishes to return and reside on the original family landholding. The proposal could not be regarded as urban generated.

## 6.2. **Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

## 7.0 **Assessment**

### 7.1. Introduction

- 7.1.1. I consider that the planning issues for consideration relating to the proposed development are rural-generated housing need, effluent treatment, the backland nature of the development and impact on residential amenity, impact on visual amenity, and the traffic impact.

### 7.2. Rural-generated Housing Need

- 7.2.1. The proposed development would be located in a rural area that is designated a 'Rural Area under Strong Urban Influence' in the County Development Plan. It is evident, given the area's proximity to Tralee and given the extent of one-off houses at this location, that the area has succumbed to the development pressure associated with urban-generated housing.
- 7.2.2. The appellant has submitted that she is a member of a family that owned land and resided in the area and that still reside there. It is further submitted that the appellant's uncle resides in the family house. There is no further understanding of the appellant's actual links to this rural area. It is known that she lives with her parents in the residential estate of Ashgrove within the town of Tralee and that she works as a social worker in the Kerry Diocesan Youth Service (KDYS) centre in Tralee.
- 7.2.3. It is apparent from the details submitted in the application and appeal that the appellant has no 'rural housing need' to reside at this location. She does not reside in the area. She does not work in, and does not have any attachment to, farming or agricultural-related activities at this rural location. There is no 'rural generated housing need' associated with the proposed development.

7.2.4. It is apparent that, based on the applicant's submission on need, this proposal would run contrary to the *Sustainable Rural Housing Guidelines for Planning Authorities*, as the appellant has no genuine 'rural' housing need within an area of the county that is under significant development pressure for one-off housing, i.e. an Area under Strong Urban Influence, close to the town of Tralee. The applicant's housing needs could clearly be met within this nearby town.

7.2.5. Further to the above guidance, I note national planning policy as set out under the *National Planning Framework* published in February, 2018. 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.

7.2.6. From the details on the appeal file, it is very clear that the appellant does not have any justification that would merit permitting the development of a house on this site. The National Planning Framework objective of managing the growth of areas that are under strong urban influence to avoid over-development would essentially be contravened. The proposal would, thus, be in conflict with the National Planning Framework.

### 7.3. Effluent Treatment

- 7.3.1. The site of the proposed development lies beyond the zoned areas for the town of Tralee and within a rural area that is not served by public sewerage. This is a location in which one-off housing is rampant and these houses are dependent on private individual effluent treatment systems. I note the very limited level of information available in the planning application of where existing percolation areas are located relative to the site of the proposed development. While limited, it is somewhat indicative of the extent of the proliferation of private effluent treatment systems in the area. It is my submission to the Board that it would be wholly unsustainable to be seeking to accommodate a further private wastewater treatment system at this location. There must be very serious concerns about the pollution threat that is posed by the development of such systems in such an intensive manner within a confined area. The proposed development would pose a pollution threat in such an instance.
- 7.3.2. I note for the Board that this issue did not form part of the planning authority's reasons for refusal, although the Site Assessment Unit acknowledged that there was conflicting information in the submitted trial hole logs in the Site Characterisation Form. This issue may be considered a new issue.

### 7.4. Backland Development and Impact on Residential Amenity

- 7.4.1. The proposed development seeks to accommodate a new house immediately behind and upslope of an existing house. The nature of this development is completely disorderly and haphazard in this rural area. Having regard to the topographical characteristics of this site, the layout of the development (whereby the proposed house faces directly towards the back of the established house on the plot), and the scale of the development, the proposal would culminate in the loss of privacy of the established property to the south and would be contrary to any notion of proper planning and sustainable development in the delivery of rural housing due to its location and adverse impact on neighbouring properties. It is not relevant that the appellant's uncle, who occupies the house to the south, has no objection to the



location of the proposed house when one is considering the long-term sustainability of the development. The proposed development, due to its siting and consequential adverse impacts for the established residential property, is unsustainable, constitutes disorderly development, and a grant of permission for it would set a most undesirable precedent for further development of this nature in the area. Further to this, I know of no plans to provide an orderly development of housing at this location.

#### 7.5. Impact on Visual Amenity

- 7.5.1. The proposed development would be located in an area where there is very extensive one-off housing and ribbon development. The proposed house would be located on more elevated ground to the rear of the existing house to the front. This location is rife with large one-off houses, with houses built immediately to the north, west and south. The site boundaries at the location for the proposed house comprise dense hedgerow. The house would be set back a substantial distance from the public road to the south and behind the existing house at the plot frontage. Its visual presence would go almost unnoticed in this context. One could not reasonably conclude that the single-storey dwelling would have any adverse visual impact from the public realm.

#### 7.6. Traffic Impact

- 7.6.1. The proposed development has extremely narrow frontage onto a local road where the horizontal alignment of the road is poor, demarcated by a continuous white centre line. It is acknowledged that the frontage lies within a speed limit control zone. However, given the narrow frontage of approximately 7 metres and notwithstanding the removal of the tree line and bank along this frontage, it is clear that the appellant's ability to have any control over the development, form and maintenance of neighbouring roadside boundaries to allow the achievement of a very basic level of safe access onto the public road is unattainable. The proposed development would constitute a traffic hazard.

## 8.0 Recommendation

- 8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

## 9.0 Reasons and Considerations

1. Having regard to the location of the site in a rural area beyond the zoned area of the town of Tralee, its siting within an Area Under Strong Urban Influence, as designated in the Kerry County Development Plan 2014, and having regard to the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* and 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 applicant does 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 does 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. Having regard to the pattern of existing residential development in the immediate vicinity of the site, to the siting of the proposed house to the rear of established residential property, to the lack of any comprehensive plan for the orderly development of lands at this location, and to the lack of public sewerage facilities to serve the proposed dwelling, it is considered that the proposed development would constitute a piecemeal, disorderly, haphazard form of

backland development in an unserviced area that would be likely to seriously injure the amenities and depreciate the value of adjoining residential property and would create an undesirable precedent for development of a similar nature in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the restricted road frontage associated with the site, the lack of control over the provision, form and maintenance of the adjoining road frontages, and to the poor horizontal alignment of the adjoining local road, it is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements it would generate on this poorly aligned public road at a point where available sightlines are severely restricted.

---

Kevin Moore  
Senior Planning Inspector

22<sup>nd</sup> July 2020