



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307537-20

<b>Development</b>	Construction of a dwelling, all associated site works, site entrance, drainage works and associated landscaping.
<b>Location</b>	Rathdermot, Lios Cross, Ballygarvan, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	19/7015
<b>Applicant(s)</b>	Barry O'Sullivan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party V. Refusal
<b>Appellant(s)</b>	Cork Airport, Dublin Airport Authority.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	16th September 2020
<b>Inspector</b>	Fergal O'Bric

## 1.0 Site Location and Description

- 1.1. The appeal site is located in Rathdermot, Lios Cross, Ballygarvan, approximately 250 metres south of Lios Crossroads. The site is located approximately 1.3 kilometres north of Fivemilebridge, and approximately 380 metres south-west of a runway serving Cork International Airport. The site is located within the Cork Airport Outer Noise and Outer Public Safety Zones. The site is also located within the Cork Metropolitan Greenbelt Area as set out within the Cork County Development Plan 2014-20.
- 1.2. The appeal site forms part of an agricultural field, where levels fall by approximately two and a half metres from north to south. Levels also fall gradually from east to west, although to a lesser extent. There are a significant number of one-house houses located in the vicinity of the site, including a recently constructed dwelling to the south, in which a brother of the current applicant resides. There is a mobile home to the rear of the family dwelling, to the north of the appeal site, in which the applicant and his wife reside. There is no record of any planning history associated with the mobile home.
- 1.3. Immediately north of the appeal site is a farm access road, used to access the family farm lands.
- 1.4. The appeal site is an infill one that exists between the family home to the north and the applicant's brothers recently constructed dwelling to the south. It has a stated area of 0.28 hectares and is rectangular in shape. Access to the site is from the adjoining public road, the L2455, a local county road
- 1.5. There is an existing mature hedgerow located along the roadside (eastern) boundary of the site, a hedgerow along the northern boundary, a post and wire fence along the southern boundary and open to the field along the western site boundary. There are extensive views afforded from the site in a westerly direction.

## 2.0 Proposed Development

- 2.1. It is proposed to construct a contemporary style dormer dwelling with a gross floor area of 137 square metres (sq. m.). It has a pitched roof with a maximum ridge height of approximately 6.7 metres. The house would be located towards the northern end of the site, and would be angled towards the public road, approximately twenty metres from the roadside (eastern) site boundary, twenty two metres from the southern boundary and thirteen metres from the northern boundary.
- 2.2. A new access and driveway approximately thirty metres in length is proposed.
- 2.3. The land is within the ownership of the applicant's parents. A letter of consent to make the application has been submitted.
- 2.4. The development provides for a packaged wastewater treatment system and polishing filter. Water supply is proposed from an on-site bored well.
- 2.5. Further information was submitted to the Planning Authority on the third day of April 2020 in relation to: Maintenance of the established building line; Submission of a landscaping plan for the site; Clarification as to the applicants current place of residence; The submission of a copy of the full family land holding; A sound and acoustics report to be submitted given the location of the site within the Outer Airport Noise Zone.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was granted subject to twenty conditions. The relevant conditions are noted below:

Condition number two: Seven-year occupancy clause.

Condition numbers five and six: Landscaping and planting.

Condition number seven: Removal of mobile home from family lands

Condition numbers eight and ten: Sightlines, entrance splay and wing wall heights.

Condition numbers fourteen to sixteen: Surface water management and roadside drainage.

Condition number eighteen: Wastewater treatment system design and construction.

Condition number twenty: Development contributions.

### 3.1.1. **Planning Reports**

The Planning Officer recommended a grant of planning permission following the receipt of the further information response.

### 3.1.2. **Other Technical Reports**

- Area Engineer: No Objections, subject to conditions.

### 3.2. **Prescribed Bodies**

- Irish Aviation Authority: Report received stating that they had no observations to make on the planning application.

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

One submission was received from Cork Airport, Dublin Airport Authority. The observations set out by them, relate to the following matters:

- The proposed development lies within the Outer Airport Noise Zone as set out within the Ballincollig/Carrigaline Local Area Plan 2017.
- They sought that an assessment be carried out by the applicant of the existing and predicted noise environment of the site.
- The applicants should demonstrate that the internal noise levels are appropriate for habitable space can be achieved and maintained.
- That appropriate noise mitigation measures be proposed by the applicant and implemented within the development.
- The development should not be located within the Airport outer safety zone.
- That the applicant should have regard to the recommendations set out within the ERM Report on Public Safety Zones, 2005.

## 4.0 **Planning History**

Appeal site:

None

Family land holding:

Planning Authority reference number 17/4745: In 2018, planning permission was granted by Cork County Council in 2017 to T & P O'Sullivan, one of the applicants (Thomas) being a brother of the current applicant. This permission pertained to the site immediately south of the current appeal site and was for the construction of a two-storey house and associated site works. This dwelling has subsequently been constructed and occupied.

Planning Authority reference number 10/5099: In 2010, planning permission was granted for a dwelling, north of the family home, however this planning permission has not been enacted.

It appears that there are two additional dwellings constructed on the northern part of the family lands which were originally part of the family land holding, west of Lios crossroads.

## **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 within 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 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 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 within 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.

Section 10.7.3 of the Plan pertains to Public Safety Zones in proximity to Cork International Airport where the following is set out: In the assessment of planning applications, in the vicinity of Cork Airport, Cork County Council will have regard to the Red Zones and PSZs identified by the Department of the Environment, Community and Local Government (DoECLG) and the Department of Transport.

Objective TM 7-1-Cork Airport

- e) Have regard to the advice of the Irish Aviation Authority with regard to the effects of any development proposals in the vicinity of Cork Airport on the safety of aircraft or the safe and efficient navigation thereof, in particular within the Red Safety Zones and Public Safety Zones identified within the Special Local Area Plan.

## **5.2. Ballincollig/Carrigaline Local Area Plan 2017**

- 5.2.1. The airport is located within the Outer Airport Noise Zone and the Outer Public Safety Zone for the airport as identified within the Ballincollig/Carrigaline Local Area Plan (LAP) 2017. There are a number of policy statements included within Sections 3.8.37 and 3.8.43 of the LAP as follows:

The noise environment and contours around the airport are likely to change as a result of future growth and development. Increased operations, changes in aircraft type and mix, changes in the associated operations such as maintenance and construction activity during implementation of developments will all contribute to increased noise.

The Nature of airports is such that there is a need to provide for adequate public safety areas in their vicinity. These Public safety areas are to help protect the public from the small, but real, possibility of an air accident in a populated area, mainly by preventing inappropriate uses of land where the risk is the greatest.

Specific Objective: CA---PS---01

Implement the policies to be determined by Government in relation to Public Safety Zones for Cork Airport. Planning applications in the vicinity of these zones will be referred to the Irish Aviation Authority (IAA) by Cork County Council's Planning

Department to seek their observations as part of the statutory planning process under Section 28 of the Planning and Development Regulations, 2001. In preparing observations the IAA will, among other considerations, have regard to the proposed development's height and proximity to these zones.

### **5.3. 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'.

### **5.4. 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.
- Objective 65 is to: Promote the pro-active management of noise where it is likely to have significant adverse impacts on health and quality of life and



support the aims of the Environmental Noise regulations through national planning guidance and Noise Action Plans.

## **5.5. Regional Spatial and Economic Strategy for the Southern Region**

- 5.5.1. Objective 14(i) of the Strategy is that: Spatial planning policies in the vicinity of the airport shall recognise and reflect the noise zones associated with Cork Airport. In particular, within the Inner Airport Noise Zone, provision of new residential and/or other noise sensitive development shall be actively resisted. Within the outer Noise Zone, provision of new residential and/or other noise sensitive development shall be strictly controlled such that future airport expansion on a 24/7 basis is anticipated and planned.
- 5.5.2. Regional Policy Objective 148 of the Strategy sets out the following: Protect the functions of airports in the region including landside accessibility to ensure the future role of airports through land-use management of land-side areas to focus on the current and future needs of the airports.

## **5.6. Natural Heritage Designations**

There are no designated areas in the vicinity of the appeal site.

## **5.7. 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 third-party appeal against the Planning Authority's decision to grant planning permission has been submitted. The content of the submission is summarised below:

- The proposed development lies within the Outer Airport Noise Zone and Outer Public Safety Zone as set out within the Ballincollig/Carrigaline Local Area Plan 2017, and that permitting another dwelling within the outer Noise Control zones could militate against the operation and development of the airport zone
- The development should not be located within the Airport Outer Public Safety Zone.
- The proposed dwelling would be located within four hundred metres of the end of the main runway for an international airport and would have implications for the safe and efficient operation of the airport.
- The airport authorities have received more complaints in recent times in relation to noise, predominantly operational noise, which would primarily occur within a four hundred metre zone around the airport.
- They recommend that noise sensitive development be located at a distance further from the airport, to ensure the amenity of residents is adequately protected.

## **6.2. First Party Response to Appeal submission**

- The applicant was born and reared in the dwelling immediately north of the appeal site.
- He has lived in this area/vicinity of Cork Airport all of his life and the appeal site has been transferred into his ownership by his parents.

- He has been living in a mobile home to the rear of his parent's property for the last three and a half years with his wife, saving money to build his new house.
- He is working part-time on the farm at present, as his father is elderly, he will therefore be taking more and more responsibility on the farm in the coming years.
- He completed his green certificate in agriculture a number of years ago in order to be ready to take over the running of the family farm.
- As his parents are getting elderly, he would like to be nearby to help care for his parents.
- The appellant has fully addressed the concerns raised by the airport authorities in relation to noise insulation and have had a comprehensive report prepared by an Acoustic Consultant at great expense, and he is happy to adhere to all of the recommendations set out by the Acoustic Consultant in terms of building specifications for the walls, windows and roof.
- He is satisfied that the recommendations set out would result in a house suitable to function adjacent to the airport.
- He was confident that having met the requirements as set out by the Planning Authority, that he would be granted planning permission.
- When he received the notification of planning permission in June, nothing further was included within the grant of permission in relation to noise mitigation, so he assumed there would be no further issues in this regard.
- He read of the planning appeal within the local print media, and the concerns raised were different to those initially highlighted by the airport authorities within their initial observation.
- A number of houses have been constructed even closer to the runway than the appeal site between 2010 and 2015 including his own brother's dwelling

permitted in 2018. None of these dwellings had concerns raised by the airport authorities in relation to their builds. Had these concerns been raised in the

- He has grown up adjacent to the airport, and if he chooses to remain in this area, then noise is something that he would be aware of and accept and would also implement all of the recommendations of the acoustic noise engineer in order to minimise the impact of the airport traffic noise on his home.
- His property could not have any more of an impact on the operation of the airport than the existing properties in the surrounding area.
- He is happy to live in harmony with the airport and hope to live here into the future as he has done so for the last thirty-five years.

### 6.3. Planning Authority Response

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

## 7.0 **Assessment**

7.1. The main issues in this appeal relate to the location of the development in proximity to Cork International Airport and in particular within the Outer Noise Control zone. Compliance with the Rural Housing Policy and Appropriate Assessment will also be addressed. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Proximity to Cork International Airport
- Compliance with Rural Housing Policy.
- Appropriate Assessment.

### 7.2. **Proximity to Cork International Airport**

- 7.2.1. The proposed dwelling would be located within the outer airport noise zone and outer airport public safety zone and within four hundred metres of the end of a runway of Cork International Airport. I note that the airport authorities state that they have received more complaints in recent times in relation to noise, predominantly operational noise, which would primarily occur within a four hundred metre zone around the airport. Therefore, they would recommend that noise sensitive development be located at a distance further from the airport to ensure the amenity of residents is adequately protected.
- 7.2.2. I note the policy statements and objectives set out with the Cork Development Plan 2014, the Ballincollig/Carrigaline LAP, 2017, and with the Regional Spatial and Economic Strategy for the Southern Region, 2020, where the protection of the functions, vitality and integrity of the airport are all highlighted as being of paramount importance.
- 7.2.3. On balance, having regard to the above, I would have concerns that the location of the current proposals, located within a four hundred metre distance of the main runway of the airport. I consider that, to permit the development in proximity to the airport, would compromise and militate against the operation and future development of the International airport. The proposals would also be contrary to the provisions as set out within the Ballincollig/Carrigaline LAP, 2017 and the Regional Spatial and Economic Strategy for the Southern Region in terms of protecting the safe and efficient operation of the airport, now and into the future. It is considered, therefore, that the proposals would be contrary to the proper planning and sustainable development of the area.

### **7.3. Compliance with Rural Housing Policy**

- 7.3.1. The site is located within the Metropolitan Greenbelt Area of Cork city. Policy's RCI 5-2 and RCI 5-3 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 policies would give rise to the incremental erosion of the greenbelt.
- 7.3.2. The Planning Authority' were satisfied 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. The applicant(s) 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 he is the son 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, given that one at least dwelling has been developed on the family holding, and it appears from the family land holding map submitted, that another two dwellings have been developed on the family holding, to the west of Lios crossroads.

- 7.3.3. 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.
- 7.3.4. The appeal site forms part of a larger family land holding. A map of the family holding was submitted as part of the further information response, and the lands are located on the western side of the L-2455, south-west of Lios Crossroads. The applicant has stated that he has completed the green certificate in agricultural studies and currently farms on a part-time basis with a view to taking on a more active role when his father retires from farming. However, the applicant has failed to demonstrate his part-time involvement in farming activities, no supporting documentation to this effect has been submitted with the application. Information submitted in support of the application, states that the applicant wishes to remain resident in the local area to help his elderly parents.
- 7.3.5. It is stated that the applicant has lived in the local area for 35 years. However, it is considered that he has not demonstrated an exceptional rural housing need based on his specific economic or social links to reside in the Rathdermot 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.

- 7.3.6. 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 Balliygarvan and Cork City.

#### **7.4. 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 proposed development lies within the Outer Airport Noise Zone and the Outer Public Safety Zone of the Cork International Airport as set out within the Ballincollig/Carrigaline District Local Area Plan 2017. The proposed development by reason of its proximity to a main airport runway would endanger and interfere with the safe and efficient operation of the airport. The proposed development would establish an undesirable precedent for similar developments in the area and

would, therefore, be contrary to the proper planning and sustainable development of the area.

2. 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 rural generated 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.

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Fergal O'Bric  
Planning Inspectorate

14th October 2020