



An  
Bord  
Pleanála

## Inspector's Report ABP-307877-20

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<b>Development</b>	Construction of a detached dwelling with a detached garage and store area, new vehicular site entrance, new biofiltration unit, new potable well and all associated site works and boundary treatments.
<b>Location</b>	Cloghphilip, Tower, Blarney, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	20/39281
<b>Applicant(s)</b>	Brendan Fitzpatrick
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party -v- Decision
<b>Appellant(s)</b>	Brendan Fitzpatrick
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> October 2020
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located in the townland of Cloghphilip, c. 1 km north of the centre of the settlement, which is known as Tower or Model Village. This site lies in an area of open countryside, which enjoys expansive views to the south. It is accessed off a local road, which extends in a north north-easterly direction from its junction with Kerry Road, which in turn runs in a south easterly direction to the R617, which passes through the centre of Tower on an east/west axis. Closer to its junction with Kerry Road, this local road passes through a cluster of detached dwelling houses, and to the north-west lies the Blarney Hotel and Golf Resort.
- 1.2. The site itself is of rectangular shape and it is situated in the northernmost corner of its host field. This site is the subject of a gentle downwards gradient in a south-easterly direction and it extends over an area of 0.329 hectares. The site's north-western boundary is with the local road and it lies at a lower level than this road. Its north eastern boundary abuts the curtilage to a detached dwelling house with lower and upper floors. These two boundaries are denoted by hedgerows, while the remaining boundaries are undefined "on the ground". To the north of the site and on the opposite side of the local road is a farmhouse and farmyard. The access to the detached dwelling house is beside the northernmost corner of the site and the access to the farmhouse is opposite this corner. The access to the farmyard is a short distance to the north-east.

## 2.0 Proposed Development

- 2.1. The proposal would entail the siting of dwelling house towards the centre of the site, i.e. largely in the northernmost corner of the southernmost quadrant. This dwelling house would comprise ground and first floors, with the latter being lit mainly by dormer windows. It would be composed of two rectangular forms under double pitched roofs. The ends of the larger form would be orientated to the north-east and to the south-west. The smaller form would be attached to this form and it would project in a north-westerly direction. A variety of finishing materials would be specified, i.e. natural stone, render, timber, and slate, and aluminium glazing would be installed. The dwelling house would afford five-bed/ten-person accommodation over a floorspace of 236 sqm.

2.2. The proposed dwelling house would be accompanied by a double garage (42 sqm), which would be sited to the north-east. A gated vehicular access to the site would be formed beside its northernmost corner in a recessed position. A bored well would be sunk adjacent to this access and waste water would be handled by means of a biofiltration unit, which would be installed in the rear garden. Rainwater soakaways would be sited adjacent to the access and adjacent to the easternmost corner of the site. The roadside boundary would be denoted by means of stone wall and the remaining boundaries would be denoted by means of a timber fence and trees. Trees would also be planted in the front garden.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Permission was refused for the following reasons:

- 1. Having regard to the location of the site of the proposed development within the Metropolitan Cork Green Belt, an area under the strongest urban pressure for rural housing, and in the absence of sufficient evidence of an exceptional, genuine, and justifiable need for housing in an area designated as being under strong urban pressure, in compliance with the relevant rural housing policy and criteria set out in the Cork County Development Plan 2014, National Policy Objective 19 of the National Planning Framework (2018), and the Sustainable Rural Housing: Guidelines for Planning Authorities (2005), it is considered that the applicant has not demonstrated that he would come within the scope of Objective RCI 4-1 of the Cork County Development Plan 2014. Therefore, to allow this dwelling, at this location in the absence of a demonstrated need would clearly set a precedence for further piecemeal development in the Metropolitan Green Belt, and would undermine the local and national policies to encourage growth of existing settlements and to only 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. It is considered that the proposed development in the absence of any identified economic or social need for the house would contribute to the encroachment of random rural development in the area and would militate against the efficient provision of public services and infrastructure. The proposed development would, therefore, contravene Ministerial Guidelines, be contrary to national policy, and conflict with the provisions of the current Cork County*

*Development Plan 2014. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

*2. The proposed development when taken in conjunction with existing development in the vicinity, would constitute an excessive density of development in a rural area where there are no public sewerage facilities and the intensification of such a pattern would eventually lead to demands for the uneconomic extension of public facilities to the area. The proposed development would therefore militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would, therefore not be in accordance with the Sustainable Rural Housing: Guidelines for Planning Authorities (2005) and would be contrary to the proper planning and sustainable development of the area.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

See decision.

### **3.2.2. Other Technical Reports**

- Irish Water: No objection, standard observations.
- Cork City Council:
  - Environment: No objection, subject to conditions.
  - Area Engineer: Further information (FI) requested with respect to the following:
    - Submission of plan showing 90m sightlines,
    - Details of surface water drain at site access,
    - Details of bored wells within 100m of the proposal,
    - Design of proposed septic tank and percolation area to be revised in accordance with the relevant EPA Code of Practice, and
    - Details of WWTSs within 100m of the proposal.
  - Contributions: No objection, subject to condition.
  - Drainage: No objection: Refer to Area Engineer's advice.

## 4.0 Planning History

- 19/5060: Similar proposal to the current one: Refused on the same grounds as the current one.
- Pre-application consultation 286/19 occurred on 11<sup>th</sup> October 2019.
- 20/1681: Part V Exemption Certificate to shadow current application granted on 16<sup>th</sup> June 2020.

## 5.0 Policy and Context

### 5.1. Development Plan

Under the Cork County Development Plan 2014 – 2020 (CDP), the site is shown as lying in the Metropolitan Cork Green Belt, but not in the recognised Prominent and Strategic portion of this Green Belt. Objective RCI 5-2 sets out the Purpose of Green Belt as follows:

*(a) Maintain a Green Belt for Metropolitan Cork with the purposes of retaining the open and rural character of lands between and adjacent to urban areas, maintaining the clear distinction between urban areas and the countryside, to prevent urban sprawl and the coalescence of built up areas, to focus attention on lands within settlements which are zoned for development and provide for appropriate land uses that protect the physical and visual amenity of the area.*

*(b) Recognise that in order to strengthen existing rural communities provision can be made within the objectives of this plan to meet exceptional individual housing needs within areas where controls on rural housing apply.*

Within the Green Belt, applications for one-off dwelling houses are assessed under Objective RCI 4-1. Objectives RCI 2-1 and 2-2 distinguish between urban and rural generated housing need, while Objectives RCI 6-1, 6-2, and 6-3, variously, relate to the design and landscaping of one-off dwelling houses, their servicing, and ribbon development.

Under the Blarney Macroom Municipal District Local Area Plan 2017 (LAP), the site is shown as lying outside the development boundary around Blarney. Under Objective ZU 2-2 of the CDP, "For any settlement, it is a general objective to locate

new development within the development boundary identified in the relevant LAP that defines the extent to which the settlement may grow during the life time of the plan.”

## 5.2. National Planning Framework

Objective NPO 19 states the following:

*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.*

## 5.3. National Planning Guidelines

Sustainable Rural Housing Guidelines

## 5.4. Natural Heritage Designations

Shournagh Valley pNHA (000103)

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Contrary to the Planning Authority’s position, the applicant states that he has an exceptional, genuine, and justifiable need for housing on the subject site, for the following reasons:
  - His family of 4 have a housing need,
  - He currently resides temporarily with his parents,
  - He owns the land, which his father and he farmed for the last 33 years and he continues to farm it,

- In the absence of the proposed dwelling house it is unlikely that he would be able to continue farming the said land.

Supporting information submitted at the application stage has been resubmitted at the appeal stage.

- Contrary to the Planning Authority's position, the applicant does not accept that an excessive density of development exists/would exist and that demands would arise, for public services for the following reasons:
  - The 23 detached dwelling houses to the west of the site are not comparable with the proposal, as they are sited together on higher land, whereas the subject site is lower, naturally landscaped on two sides, and adjacent to only 2 other dwelling houses and a farm yard. Furthermore, its dormer design would ensure that it is not conspicuous within the landscape.
  - The proposal would be served by its own potable well and biofiltration unit and so it would not generate a demand for public services.
- Contrary to the PA's position, the applicant states that 12 hectares would be larger enough to constitute a full-time farm, for the following reasons:
  - The applicant intends to rent land to improve his farm's viability. His wife's income would initially supplement any shortfall in his income.
  - In addition to the crush pen and shed, there are additional pens in the middle of the farm. Sheep and cattle are stocked. The lambing season is staggered to facilitate use of what is a small shed. The cattle are bought in the spring, fattened, and sold in the autumn. Thus, the existing facilities are adequate.
- Attention is drawn to the planning history of the wider area. Thus,
  - 04/6440: A hotel, golf course, and 56 holiday homes were permitted on Green Belt land off Kerry Road to the north of the subject site.
  - 19/4718: 12 dwelling houses were permitted on Green Belt land off Kerry Road to the north of the subject site.



- 20/39202: 37 dwelling houses are presently the subject of a request for further information: The lands concerned were formerly Green Belt and they lie to the south-west of the subject site.

Furthermore, the case planner's reference to there being 30 dwelling houses within 500m of the subject site suggests that there is ample precedent for new dwelling houses in the area.

## 6.2. **Planning Authority Response**

None

## 6.3. **Observations**

None

## 6.4. **Further Responses**

None

## 7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the National Planning Framework (NPO), the Sustainable Rural Housing (SRH) Guidelines, Cork County Development Plan 2014 – 2020 (CDP), Blarney Macroom Municipal District Local Area Plan 2017 (LAP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Rural housing policy,
- (ii) Development standards, amenity, and access,
- (iii) Water, and
- (v) Appropriate Assessment.

### **(i) Rural housing policy**

7.2. Under the CDP, the site is shown as lying within the Metropolitan Cork Green Belt. Objective RCI 5-2 sets out the purpose of green belt. Under Item (a) of this

Objective, this purpose is to essentially retain the open and rural character of lands between and adjacent to rural areas. Under Item (b), it does not negate the need to meet exceptional individual housing needs.

- 7.3. Objective RCI 4-1 states that “The Metropolitan Green Belt is the area under strongest urban pressure for rural housing. Therefore, applicants should satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need based on their social and/or economic links to a particular local area and, in this regard, must demonstrate that they comply with one of four categories of housing need.”
- 7.4. The applicant has not identified which of the four categories set out in Objective RCI 4-1 that he is applying under. He has stated in the completed Supplementary Planning Application Form that he presently works as a part-time farmer, but that he does so with a view to working full-time in the future. The farm in question has an area of 11.98-hectares and it is served by a small shed with accompanying pens, including a crush pen. (A further livestock handling pen is sited in the centre of the farm, where the three fields that comprise it intersect). The Planning Authority questioned whether the size of the farm and the existing facilities comprised within it would be sufficient to enable the applicant to become a full-time farmer in the future. The applicant has responded by stating that he intends to rent land to farm in the surrounding area and his farming practice is such that the existing facilities are adequate.
- 7.5. I note that at present the applicant is not a full-time farmer and so the second and third categories that are based on this status of farmer are therefore not open to him.
- 7.6. The fourth category is based on landholdings associated with principal family residences. The applicant has stated that the ownership of the farm has passed from his father to himself, yet this farm is not served by a family residence. His father and he farmed the land over the last 33 years in the absence of a farmhouse. The fourth category does not therefore apply.
- 7.7. The first category, denoted as (a), states, “Farmers, including their sons and daughters who wish to build a first home for their permanent occupation on the family farm.” This category appears to come from the Sustainable Rural Housing Guidelines. Thus, under the heading of Rural Generated Housing and the sub-

heading of “Persons who are an intrinsic part of the rural community”, the following description is given:

*Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms...*

- 7.8. I note that, whereas the applicant has stated on the completed Supplementary Planning Application Form that he lived in the local rural area where the site is situated, he has not given an address or indicated the period of such residence. None of the submitted plans identify such a residence. He does cite sporting links with the wider locality of the site, but these do not establish residency. He presently resides with his family in his parents’ home in Ballincollig, having recently returned there from Dublin, where he lived and worked for several years. Accordingly, there is no evidence before me that the applicant’s housing need is a rural generated one as he has not established that he has ever resided in the rural locality of the site, as distinct from having worked part-time therein.
- 7.9. I note, too, from the completed Supplementary Planning Application Form that the applicant states that he has neither previously owned or obtained planning permission for a dwelling house nor has he built a dwelling house in a rural area. Nevertheless, insofar as the applicant has not established that his housing need is a rurally generated one, this information does not serve to meet the description set out in Category (a).
- 7.10. I conclude that, as the applicant has not established that he has a rural generated housing need and, as he is presently a part-time rather than a full-time farmer, he is not a candidate for a dwelling house on the site.

**(ii) Development standards, amenity, and access**

- 7.11. The proposed dwelling house would provide five-bed/ten-person accommodation over two floors with a total floorspace of 236 sqm. This dwelling house would not be fully two storeys in height, as its first floor would be predominantly lit by dormer windows. Its predecessor, which was the subject of application 19/5060, was for a fully two-storey dwelling house with a slightly larger floorspace at 249 sqm.

- 7.12. The submitted floor plans indicate that the proposed dwelling house would be capable of affording a satisfactory standard of amenity to future residents from both quantitative and qualitative perspectives.
- 7.13. The design of the proposed dwelling house, while contemporary, would reference the vernacular in its underlying rectangular forms and straight gabled double pitched roofs. The palette of finishing materials specified would reflect this combination of the traditional and the modern, too.
- 7.14. The prominence of the proposed dwelling house within the landscape would be affected by its height and siting. Its finished ground floor level would be 103m OD, which would be c. 2.5m lower than the adjacent local road. Thus, while the roadside hedgerow along the front boundary of the site would be removed, beyond this frontage the existing combination of mound and hedgerow would be retained and so views of the dwelling house on approach would be partially screened. Proposed tree planting to the remaining site boundaries and the front garden would afford further natural screening in time. The dwelling house would be sited in a position whereby it would loosely align with the existing dwelling house on the adjoining plot to the north-east. To the north lies an existing farmhouse and farm yard, which is composed of a cluster of substantial farm buildings. Thus, the proposed dwelling house would be seen within the context of these existing buildings and
- 7.15. The proposed dwelling house would be accessed by means of a new access point from the local road. This new access point would be sited towards the northern corner of the site and it would be within the immediate vicinity of the existing access points to the neighbouring dwelling house and farmhouse. The new access point would be formed by means of splayed wing walls on either side of a recessed gateway. Sightlines with x and y dimensions of 2.4m and 90m would be available in either direction. An accompanying 32m long driveway would provide scope for the difference in levels between the local road and the site to be satisfactorily negotiated.
- 7.16. I conclude that the proposed dwelling house would afford a satisfactory standard of amenity to future residents, it would be compatible with the visual amenities of the area, and this dwelling house would be capable of being accessed satisfactorily.

### **(iii) Water**

- 7.17. The proposed dwelling house would be served by a bored well for the purpose of supplying potable water. The submitted site layout plan shows the siting of this well in a position adjacent to the northern corner of the site. While water test results have not been submitted, reference is made to the reliance of the neighbouring dwelling house upon a bored well.
- 7.18. The proposed dwelling house would be served by a septic tank and percolation area. To this end, a Site Characterisation Form (SCF) was completed, details of which are set out below:
- The aquifer is locally important and of high vulnerability. The Response Matrix is thus R1.
  - Ground water flow is in a south-easterly direction.
  - The site plan, which accompanies the SCF, shows the siting of the T and P test holes.
  - The trial hole was dug to a depth of 2.3m. No groundwater was detected within this depth. The topsoil and the subsoil are composed of silt/clay.
  - The T-test holes yielded an average result of 13.17min per 25mm and the P-test holes yielded an average result of 35min per 25mm. Under Table 6.3 of the EPA's relevant Code of Practice (CoP), the former result indicates that the "site is suitable for the development of a septic tank system or a secondary treatment system discharging to ground water".
  - The applicant proposes to install a septic tank with a percolation area composed of trenches totalling 108m in length, i.e. to serve 6 PE.
- 7.19. The submitted site layout plan shows the siting of the proposed septic tank and percolation area in the proposed rear garden c. 45m to the north-west of proposed bored well. This plan also shows the layout of the proposed septic tank and percolation area, which would be composed of two sub-areas. Under Table 6.1 of the EPA's relevant CoP, the minimum separation distances between these sub-areas and the proposed dwelling house, site boundaries, and a soakaway would not be consistently achieved. Nevertheless, there would be scope within the proposed rear garden for the re-siting of them to achieve compliance.

- 7.20. The Planning Authority's second reason for refusal refers to the absence of public sewerage facilities from the rural area within which the site is located and so it envisages a scenario within which pressure for such facilities would arise, due to the proposed dwelling house and other existing development. The applicant has responded to this reason by drawing attention to the proposed on-site septic tank and percolation area and the adequacy of these facilities to deal with waste water generated by the proposed dwelling house.
- 7.21. During my site visit, I observed that the site is close to an existing dwelling house and an existing farmhouse. These existing developments are presumably served by on-site septic tanks and percolation areas. Other development along the local road to the north-east and the south-west is at some remove from the site and so I do not have any particular concerns about an over concentration of such facilities in the vicinity of the site. As to the Planning Authority's wider concern, I am not persuaded that the case has been made sufficiently, in terms of the locality of the site, to justify the second reason for refusal.
- 7.22. The submitted site plan shows the siting of two proposed soakaways, one adjacent to the proposed site access and one adjacent to the easternmost corner of the site. Beyond these soakaways, no other information on surface water drainage arrangements has been submitted.
- 7.23. The applicant advises that the site has not to his knowledge been flooded and the OPW's flood maps do not show the site or the surrounding area as being the subject of any identified flood risk.
- 7.24. I conclude that, subject to conditions pertaining to water testing, the re-siting of the proposed percolation area, and the design of surface water drainage system for the site, the proposal would raise no outstanding water issues.

#### **(iv) Appropriate Assessment**

- 7.25. The proposed dwelling house would not be sited in or near to any Natura 2000 site. Furthermore, there are no source/pathway/receptor routes between the site and any Natura 2000 site in the wider area. Accordingly, the proposal would not be likely to have any significant effects on the Conservation Objectives of such Natura 2000 sites during either its construction or operational phases.

7.26. Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. That permission be refused.

## 9.0 Reasons and Considerations

Having regard to the location of the site within an Area Under Strong Urban Influence as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in the Cork Metropolitan Green Belt where housing is restricted to persons demonstrating local need in accordance with the Objective RCI 4-1 of the current Cork County Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. 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, therefore, be contrary to the proper planning and sustainable development of the area.

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Hugh D. Morrison  
Planning Inspector

26<sup>th</sup> November 2020