



An
Bord
Pleanála

Inspector's Report ABP-308038-20

Development	House and treatment plant
Location	Farrangalway, Kinsale, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/05168
Applicant(s)	Declan Dunlea
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Declan Dunlea
Date of Site Inspection	13 th October, 2020
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site is located in a rural area approximately 4km north of the town of Kinsale in County Cork. There is a gated access lane from a local road leading to the site which was formerly part of a railway line. The main part of the site is triangular in shape, has two sheds at its south-western end and a railway carriage forward of these buildings. The latter appears to be in residential use. The location for the proposed house is on slightly lower ground and is circulated by an internal driveway. There is an existing septic tank system at the location of the proposed wastewater treatment plant. The site is fenced and enclosed by hedgerow. Development in the vicinity comprises sporadic housing to the north-east and south-east and Kinsale Golf Club to the north.

2.0 Proposed Development

2.1. The proposed development would comprise the construction of a house and the installation of a wastewater treatment plant. The two bedroom house would be two storeys in height and would have a stated floor area of 132.7 square metres. The house would be served by a private well. Details submitted with the application included a completed Site Characterisation Form.

3.0 Planning Authority Decision

3.1. Decision

On 4th August 2020. Cork County Council decided to refuse permission for the proposed development for one reason relating to 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 the Area Engineer's report. It was submitted that the applicant had not spent a substantial period of his life living in the local area and therefore did not comply with

Development Plan criteria that would make him eligible for a house in the area. A refusal of permission was recommended.

The Senior Executive Planner concurred with the Planner's recommendation.

3.2.2. Other Technical Reports

The Area Engineer noted the area is not served by a public water main and that an existing well is indicated on the site plan. Further information was requested relating to sightlines, surface water drainage, and on the wastewater treatment process.

4.0 Planning History

P.A. Ref. 19/4289

Permission was refused for a dwelling for one reason relating to the applicant not having any *bona fides* ties to the area.

P.A. Ref. 19/4293

Permission was granted for the retention of two timber sheds for domestic storage purposes.

5.0 Policy Context

5.1. Cork County Development Plan

Rural Housing

The site is located in an area designated a 'Rural Area under Strong Urban Influence'.

The following objective applies:

RCI 4-2: Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1)

The rural areas of the Greater Cork Area (outside Metropolitan Cork) and the Town Greenbelt areas are under significant urban pressure for rural housing. Therefore, applicants must satisfy the Planning Authority that their proposal constitutes a genuine rural generated housing need based on their social and / or economic links

to a particular local rural area, and in this regard, must demonstrate that they comply with one of the following categories of housing need:

- a) Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm.
- b) Persons taking over the ownership and running of a farm on a fulltime basis, who wish to build a first home on the farm for their permanent occupation, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.
- c) Other persons working fulltime in farming, forestry, inland waterway or marine related occupations, for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.
- d) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.
- e) Returning emigrants who spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation, who now wish to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire.

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:

- The appellant is at retirement and through a variety of social circumstances has no other property other than the site to live on. He has lived and worked within 4km of the site for the past 10 years. He had a shop in Kinsale. Since 2020 he has moved to temporary accommodation on the site.
- He has a genuine connection to the land for over seven years having purchased it more than eight years ago.
- He has been attending to the flora and fauna and restoration of the natural hedging and the tree belt. He has planted an apple orchard and has bee hives and chickens.
- There are timber sheds of high architectural character for which he has permission and a bored well.
- He complies with the provisions set out in RCI 4-2(d) of the Development Plan.
- He has very well-established friends, relationships and reputation in the community and letters of support from two neighbours are attached.
- It is acknowledged that there are no objections to the proposal.
- The concerns of the Area Engineer are noted and clarification is presented on sightlines, water supply, surface water, and wastewater treatment.
- The property does not overlook any other properties, does not break the skyline and the design is sensitive in scale.
- The appellant is comfortable to adhere to a binding condition under section 47 of the Planning Act.
- The development meets the policy of being the appellant's first permanent home for occupation.

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 note the remote location for the proposed house, its setting away from the public road network, the nature of development in the vicinity and the well-drained soil conditions at this site. I do not have any concerns relating to the design of the proposed house, the visual impact arising from its setting, or any significant concerns about the serving of any such house by a private on-site effluent treatment system. The principal issues relating to the proposed development are the applicant's rural housing need and the traffic impact.

7.2. Rural Housing Need

7.2.1 The site of the proposed development is in a location designated a 'Rural Area under Strong Urban Influence' in the current Cork County Development Plan. The objective which applies to proposed rural housing in such locations is Objective RCI 4-2. This objective acknowledges that these areas are under significant urban pressure for rural housing. It is very clear from the extent of one-off housing in the area in which the house under appeal is proposed that this rural location is under very significant development pressure for housing given its proximity to the tourist town of Kinsale, accessibility to the amenities of this area, and indeed accessibility to Cork City. It is reasonable that such a location is included as a 'Rural Area under Strong Urban Influence' in the Development Plan.

7.2.2 Arising from a proposal within such an area, applicants are required to satisfy the planning authority that their proposal constitutes a genuine rural generated housing need based on their social and / or economic links. They are required to demonstrate that they comply with one of the following categories of housing need:

a) Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm.

b) Persons taking over the ownership and running of a farm on a fulltime basis, who wish to build a first home on the farm for their permanent occupation, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.

c) Other persons working fulltime in farming, forestry, inland waterway or marine related occupations, for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.

d) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.

e) Returning emigrants who spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation, who now wish to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire.

7.2.3 I note that the appellant is not a farmer, is not looking to take over ownership or the running of a farm, does not work fulltime in farming, forestry, inland waterways or in a marine-related occupation, and is not a returned emigrant. The appellant submits that he meets with part d) of the Objective, namely that he is a person who has spent a substantial period of his life living in the local area in which he proposes to build his first home. Notwithstanding the appellant owning the site and having sheds thereon, it is very clear that he has not lived in this area for a period of more than seven years. He has submitted that he lived and worked within 4km of the site for the past 10 years, that he had a shop in Kinsale, and since 2020 he has moved to temporary accommodation on the site. It is apparent that the appellant does not meet with the requirements of part d) of Objective RCI 4-2. Therefore, the planning authority was correct in concluding that the applicant did not comply with the relevant objective.

7.2.4 Further to the above, 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 Kinsale. The appellant's residential 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. Traffic Impact

7.3.1 The proposed development has a narrow access onto the local public road. A hedgerow immediately to the north of this access and beyond the direct control of the appellant somewhat inhibits visibility northwards when existing this location. The

public road onto which the proposed development would access is narrow, with its surfaced carriageway being only 3.2 metres in width in the vicinity of the site, is poorly aligned horizontally, and cannot accommodate two-way vehicular traffic safely. These constraints constitute significant traffic concerns and, in the context of the extent of development in the area, would result in the proposed development generating traffic that would conflict with established road users leading to a traffic hazard.

8.0 Recommendation

8.1. I recommend that permission is refused for the following reasons and considerations:

9.0 Reasons and Considerations

1. Having regard to the location of the site within a Rural Area under Strong Urban Influence as designated in the Cork County Development Plan 2014 and 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 Cork County Development Plan and the Sustainable 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 Cork County Development Plan, the *Sustainable Rural Housing Guidelines for Planning Authorities*, and the 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 poor horizontal alignment of the local road at this location, the substandard, restricted width of this road, and the limited available sightlines at the site frontage, 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.

Kevin Moore
Senior Planning Inspector

21st October 2020