



An  
Bord  
Pleanála

## Inspector's Report ABP-308131-20

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<b>Development</b>	Construction of dwelling, demolition of agricultural shed, part demolition of agricultural shed, decommissioning of septic tank, and provision of wastewater treatment system
<b>Location</b>	Orkla Farm, Callas, Berrings, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	20/4907
<b>Applicant(s)</b>	Leah McDonnell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Leah McDonnell
<b>Date of Site Inspection</b>	8 <sup>th</sup> December, 2020
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The 2.6 hectare site of the proposed development is located approximately 0.7km east of the village of Berrings in County Cork. It is accessed via an entrance onto the southern side of a local road between two dwellings. There is a gravel driveway from the entrance leading to the main body of the site. There are four agricultural sheds at the north-eastern end of the site and an orchard to the south of these along the eastern flank. The central section of the site is planted with oak trees. Development in the vicinity includes three detached houses to the north fronting onto the local road. The site is bounded to the east and west by agricultural lands.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the construction of a part two-storey / part single-storey four bedroom dwelling, the demolition of a vacant agricultural shed, the demolition of part of the south façade of an agricultural shed to accommodate parking a vehicle, the decommissioning of an existing septic tank, and the provision of a new wastewater system. The house would be served by a private well. It is submitted that the applicant would run the family farm on the site.
- 2.2. Details submitted with the application included a planning statement, extracts from the farm business plan, a letter of consent for the making of the application from the applicant's parents (landowners), a completed site characterisation assessment, and details on primary and secondary school attendance and the applicant's links to the area.
- 2.3. Further unsolicited information in support of the application was submitted to the planning authority on 6<sup>th</sup> August 2020.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 13<sup>th</sup> August 2020, Cork County Council decided to refuse permission for the proposed development for three reasons relating to lack of rural generated housing need, consolidation of a suburban pattern of development in a rural area, and the

generation of backland and haphazard development and an excessive density of development in the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted the site's planning history and development plan provisions. It was submitted that the site was used as a horse training / stables and was not a longstanding farm. It was also noted that the landowners are in ownership of a house in Berrings and that the applicant could not be considered to be a daughter of a farmer. It was submitted that the farm is not a fulltime farm and is more of a "hobby farm" as referred to in the applicant's documentation. It was also noted that the applicant is not working fulltime in farming, forestry, inland waterway or marine-related occupations and is working as a substitute primary school teacher and part-time farmer. It was acknowledged that she has been living in the settlement of Berrings since 2003. It was considered that a site-specific local housing need had not been established in accordance with the requirements of the County Development Plan. With reference to Objective RCI 4-7 of the County Development Plan relating to housing provision associated with rural enterprise, it was considered that the requirements of the objective had not been met, with the business case not being met. It was also argued that the development would exacerbate the trend towards haphazard development in the area and there was concern about the density of housing in this rural location. It was also considered to be backland development. The general design, scale and layout of the proposed house was viewed as being acceptable. The request for further information from the Area Engineer was noted. In conclusion, it was noted that permission had previously been refused for a house three times on the site and that no additional significant information had been submitted to support a dwelling at the site. A refusal for three reasons was recommended.

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

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

The Area Engineer requested the submission of further information relating to sightlines at the entrance, details on the proposed wastewater treatment system, separation distances relating to the well, and the treatment of surface water runoff.

## 4.0 Planning History

### P.A. Ref. 16/5242

Permission was refused for three reasons for a single-storey dwelling and wastewater treatment plant.

### P.A. Ref. 16/6098

Permission was refused for three reasons for a single-storey dwelling and wastewater treatment plant.

### P.A. Ref. 17/5529

Permission was refused for three reasons for a single-storey dwelling and wastewater treatment plant.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2014

#### 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*

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.

### Rural Business

Objectives include:

#### *RCI 4-7: Full-Time Home-Based Business in a Rural Area*

Facilitate the housing needs of persons who can satisfy the Planning Authority of their long term commitment to operate a “bona fide” full time business from their proposed home in the rural area.

- Applicants must satisfy the planning authority that the business will contribute to and enhance the rural community and that the nature of their employment or business is dependent on its location within the rural area.

*and*

- The applicant must demonstrate their commitment to the proposed business through the submission of a comprehensive and professional Business Plan, and through submission of legal documentation that they have sufficient funding committed to start and operate the business.

The Planning Authority will normally regulate the programme of development, occupancy and use of the fulltime homebased business by either an appropriate planning condition and/or enforceable legal agreement.

## **5.2. Appropriate Assessment**

Having regard to the nature, limited scale, and location of the proposed development, the nature of the receiving environment, and the significant separation distance 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. An appropriate assessment 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 synopsised as follows:

- The appellant is a teacher-farmer who has been residing for the past 17 years less than 450 metres from the site.

- The appellant's family are registered members of the Irish Farmers Association.
- The land constitutes a farm. The appellant is registered with the Department of Food and the Marine (poultry), Agriculture, Food and Marine (forestry), and for bee keeping, organic orchard, herb and egg production, etc.
- The appellant has been working the land with her wider family for a number of years on a daily-weekly basis. The site has been purchased over eight years ago and has been transformed from a neglected stabling and collection of farm buildings.
- It is vital for security reasons that the appellant is resident on the farm to protect the investment and belongings.
- In response to the Area Engineer's report, it is submitted that adequate sightlines are in place at the entrance but that tentative discussions had taken place with neighbours relating to sightline improvements. It is also submitted that surface water issues could be addressed by way of condition and that water supply and wastewater treatment proposals could be certified and upgraded where necessary.
- The appellant proposes to develop a rural-based teaching practice at the site from her home with a projected launch in late 2022, implementing a grinds-based classroom environment as an extension to her home. This would cater for 6-12 students in the first year and rise to 10-15 in year two. Indicative sketch layout and plan drawings are submitted illustrating the conversion of sheds to a classroom facility along with accommodation for two sabbatical teachers. The Board is asked to consider this proposal when making its decision and to consider a condition that paves the way for the appellant to engage with the Council further for the teacher and classroom accommodation.
- A revised site plan is also submitted moving the proposed house 5 metres south. The current sheds on the site are overly large for the specialist farm requirements and the revised design of the sheds will still allow for the retained capacity that the farm needs for future production along with a contingency of 20% of the sheds reserved for organic future farm growth. The

movement of the house to align with the sheds will no longer necessitate the demolition of one of the stabling blocks and it would be maintained for farm use.

- The submission of a business plan could be conditional on planning.
- In light of the home-based teaching and farm business, the permission could be viewed as necessary and less weight could be afforded to the concerns on density and backland development.

The appeal submission includes letters of support from neighbours, a Garda, a retired school vice principal, and an agri-stores business.

## 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. While noting that there are a number of health and safety issues such as improved sightlines at the entrance and further details required on effluent treatment, I submit that the principal planning issues relating to the proposal are the appellant's rural generated housing need, consolidation of suburban-type development, and disorderly development.

### 7.2. Rural Generated Housing Need

It is the applicant's submission that she is a teacher-farmer. The farm comprises a land area of 2.6 hectares. There are a number of sheds, a small tree planted area, a couple of plots for horticultural-related activities, some poultry and some pigs. The appellant has submitted that she has been working the land with her family for a number of years on a daily/weekly basis. The appellant and her family reside in Berrings. She has plans to develop a teaching practice at the site.



It is my submission to the Board that what exists at the site at present is a small “hobby” farm, as referenced in the applicant’s documentation. At no time has it been demonstrated that the appellant would be farming a viable farm holding on this 2.6 hectare plot. Indeed, it is apparent that the appellant seeks to erode the small-scale farming activities that exist by the development of a house and the further development of an alternative educational enterprise that is unrelated to farming and which has no dependence as a business to be sited at this rural location. It is apparent that it is wholly unsustainable to be permitting a house to be developed on this small holding. The precedent that would result from allowing housing based on such “hobby” farming and alternative non-rural related enterprises would have significant adverse consequences for the environmental and planning sustainability of rural areas.

Given the appellant’s occupation and where she has been residing and continues to reside, it is clear that she does not meet with Objective RCI 4-2 of the Cork County Development Plan. This is an Area under Strong Urban Influence. It is evident from the build-up of suburban-type housing in this area that it is under significant development pressure, stemming from the proximity and accessibility to Cork City. The appellant could not reasonably be understood to be a farmer based on the details provided in the application and the appeal. She is not a daughter of a farmer and is not a person taking over a viable farm that is to be run on a fulltime basis. She is not working fulltime in farming, forestry, inland waterway or the marine. She has not spent a substantial period of her life living in this rural area and she is not a returning emigrant who previously lived in the local rural area.

I further note again the appellant’s development intention for the site as a teaching practice enterprise. This would be a home-based business which would be contrary to Objective RCI 4-7 of the Cork County Development Plan. Such an enterprise is required to demonstrate that it will contribute to and enhance the rural community and is one that is required to be dependent on its location within the rural area in accordance with this objective. Such a proposal does not meet with these requirements and should appropriately be located where there is a population base and catchment within a serviced area.

Further to the above, it is apparent that, based on the appellant’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, easily accessible to Cork City. The appellant's residential needs could clearly be met within serviced settlements.

In addition, 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.

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. Consolidation of Suburban-type Development

I again note that the site is located in an area which is designated an Area under Strong Urban Influence. The proximity and accessibility to Cork City, being less than

20km from the city centre, has resulted in significant pressure for one-off housing in this rural area. A perusal of existing mapping of the area will ably demonstrate that the rural area has succumbed to significant pressure for such housing. The proposal will add to the extensive housing development that is unrelated to any rural housing need and, therefore, will seek to consolidate urban-generated and suburban-type development.

#### 7.4. Disorderly Development

The proposed development would be sited to the rear of established houses which front onto the public road immediately to the north of the proposed house. This is disorderly development which potentially would create nuisance for neighbouring properties and which would culminate in a undesirable precedent for development of this nature in the wider rural area. This haphazard development, where the development is unserviced, being dependent upon a private wastewater treatment system and private well, constitutes an unsustainable form of development.

### 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 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 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 properties, and to the lack of public water services to meet the needs of 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 properties 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.

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Kevin Moore  
Senior Planning Inspector

16<sup>th</sup> December 2020