



An  
Bord  
Pleanála

## Inspector's Report ABP-308335-20

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<b>Development</b>	Conservation and renovation of derelict dwelling, construction of an extension, construction of a studio, and installation of wastewater treatment plant
<b>Location</b>	Gortnaclasha, Kilcrohane, Bantry, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	20/281
<b>Applicant(s)</b>	Dylan Haskins & Bláthnaid McKenna
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Dylan Haskins & Bláthnaid McKenna
<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 triangular shaped rural site is located approximately 1km south of the village of Kllcrohane in West Cork a short distance from Dunmanus Bay. There are a number of dwellings and ruins of former dwellings in the immediate vicinity. The site is at the end of a minor local road network and is served by an overgrown lane. There are two ruinous stone-built structures that were former dwellings on the site, one of which flanks the western boundary. The site is otherwise overgrown by rough grass and bracken. The existing structures are orientated north / south. The boundaries of the site comprise dry stone walls. The site is bounded to the north and east by the laneway, to the south by fields, and to the west by a house and outbuildings.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the conservation and renovation of a derelict dwelling and construction of an extension to provide a single-storey, three bedroom house, the construction of a studio, installation of a wastewater treatment system, provision of off-road car parking, landscaping and ancillary works. The gross floor area of the development would be 163 square metres. Water supply to the house would be from an on-site well.
- 2.2. Details submitted with the application included a Planning and Design Statement, a Site Suitability Survey, a Structural Assessment and Condition Report, a Conservation Feedback Report, and letters of support for the application.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 11<sup>th</sup> September 2020, Cork County Council decided to refuse permission for the proposed development for two reasons relating to lack of a rural generated housing need and overdevelopment.

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

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

The Planner noted pre-application consultation, development plan provisions, and reports received. Reference was made to the over-scaled nature of the development relative to existing structures and incompatibility with plan objectives. It was submitted that the evidence points to the structures becoming holiday accommodation and a second home. A request for further information was recommended seeking a scaled down development proposal.

### 3.2.2. Other Technical Reports

The Area Engineer had no objection to the proposal subject to a schedule of conditions.

3.3. A request for further information was sought by the planning authority on 28<sup>th</sup> July 2020 and a response was received on 17<sup>th</sup> August, 2020. The applicant asked the planning authority to consider the original proposal and it was submitted that if the Council still wished the proposal to be reduced in extent the loss of the studio could be considered. It was further stated that the applicants would be willing to accept the imposition of an occupancy clause for a limited period to ensure the Council of their intention to use the house as their main family dwelling.

3.4. The reports to the planning authority were as follows:

The Area Engineer stated he had no comment on the response.

The Planner submitted that the concerns raised were not addressed and recommended that permission be refused for two reasons.

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

## 4.0 Planning History

I have no record of any planning application or appeal relating to this site.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2014

#### Sustainable Rural Housing

Objectives include:

##### *RCI 2-1: Urban Generated Housing*

Discourage urban generated housing in rural areas, which should normally take place in the larger urban centres or the towns, villages and other settlements identified in the Settlement Network.

#### Rural Area Type

The site is located in an area designated a Tourism and Rural Diversification Area.

The Plan states that these parts of rural and coastal County Cork exhibit characteristics such as evidence of considerable pressure for rural housing, in particular higher demand for holiday and second home development. They are more distant from the major urban areas and the associated pressure from urban generated housing. They are also seen to have higher housing vacancy rates and evidence of a relatively stable population compared to weaker parts of the county. These areas have higher levels of environmental and landscape sensitivity and a weaker economic structure with significant opportunities for tourism and rural diversification.

The applicable objective relating to these areas is:

##### *RCI 4-3: Tourism and Rural Diversification Area*

*This rural area has experienced high housing construction rates and above average housing vacancy rates which has led to concerns that a higher demand for holiday and second homes is depriving genuine rural communities the opportunity to meet their own rural generated housing needs. Therefore, in order to make provision for the genuine rural generated housing needs of persons from the local community based on their social and / or economic links to a particular local rural area and to*

*recognise the significant opportunities for tourism and rural diversification that exist in this rural area, it is an objective that applicants must demonstrate that their proposal complies 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 full time in farming, forestry, inland waterway, marine related occupations or rural based sustainable tourism, for a period of over three 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) Persons whose predominant occupation is farming / natural resource related, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.*
- f) Persons whose permanent employment is essential to the delivery of social and community services and intrinsically linked to a particular rural area for a period of over three consecutive years and who can demonstrate an economic and social need to live in the local rural area where they work, within which it is proposed to build a first home for their permanent occupation.*
- g) 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.*

## Refurbishment of a Derelict Dwelling

The following objective applies:

### *RCI 8-1: Refurbishment of a Derelict Dwelling*

*Encourage proposals for the sensitive renovation and conservation of existing disused or derelict dwellings subject to normal proper planning and sustainable development considerations as well as the requirements of other objectives in the plan and provided that it satisfies the following criteria:*

- The original walls must be substantially intact.*
- The structure must have previously been in use as a dwelling.*
- The dwelling must be physically capable of undergoing renovation / conversion without demolition.*
- Where the building is derelict, a structural survey by a qualified engineer must be submitted as part of any planning application to include measures to protect the building from collapse prior to, and during, the construction works.*
- The design, scale and materials used in any renovation / and or extension should be sympathetic to the character and setting of the existing dwelling.*
- Mature landscape features are retained and enhanced, as appropriate.*
- No damage shall be caused to sites used by strictly protected wildlife.*

*In the interests of clarity, the provisions of Objective RCI 2-2 (i.e. the 'Rural Generated Housing Need' requirement) and Objective RCI 6-4 (i.e. Occupancy Clause) will not apply except where the total or substantial demolition of the existing structure and a new dwelling is proposed.*

## **5.2. Appropriate Assessment**

Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and the significant separation distance to the nearest European sites, 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.

### 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. An EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- The Area Planner failed to acknowledge and engage with the contents and substance of large parts of the applicants' submission, in particular the Planning & Design Statement, the further information response, the Conservation Report, the independent appraisals and expert letters of support.
- The Area Planner has not assessed or made any reference to the innovative environmental and building services strategy and use of technology for a low-impact, low-carbon sustainable family home.
- The Area Planner's report contains several material errors and erroneous references to policies of no relevance to the submission.
- There is lack of clarity in the Senior Executive Planner's report relating to the recommendation.
- Reason 2 of the decision relating to Objective RCI 8-1 rests on consideration of whether the proposal is or is not sympathetic to the existing derelict dwelling. This view contradicts the assessment of a number of independent experts. If a view was taken that the proposal is sympathetic in scale and form to the existing derelict dwelling then the criteria for Objective RCI 8-1 would be met.
- Under P.A. Ref. 16/488, the planning authority granted permission for the extension and renovation of a 23.5 sqm derelict dwelling to create a 120 sqm

house in Gortnaclasha. No rural generated housing need was established and RCI 8-1 was cited as a relevant policy in deciding the application.

- Regarding Reason 1 of the decision relating to rural generated housing need, Objective RCI 8-1 explicitly states that these policies do not apply where proposals meet the criteria of Objective RCI 8-1.
- It is unclear how Objective RCI 2-1 referred to in Reason 1 has any relevance to the application as the site is not in the vicinity of an urban centre or an area under urban pressure.
- As well as fulfilling a housing need, the ambition with the project is for the renewal and reimagining of a vernacular Irish typology. The architectural innovation of the project has not been noted or evaluated by the Area Planner but is a factor it is hoped the Board will consider.

The appeal submission includes more detail on the responses to the two reasons for the refusal given by the planning authority as well as the application details submitted to the planning authority.

## 6.2. **Planning Authority Response**

The planning authority submitted a response to the appeal outside the appropriate period.

## 7.0 **Assessment**

### 7.1. Introduction

- 7.1.1. I consider that the principal planning issues relating to the proposed development are the development in the context of Development Plan provisions and the design, scale and servicing of the proposed development.

## 7.2. The Development in the Context of Development Plan Provisions

- 7.2.1. The relevant Development Plan for consideration when assessing the key issues relating to such matters as refurbishment of derelict structures, rural generated housing need, etc. is Cork County Development Plan 2014.
- 7.2.2. It is apparent from details provided in this application in terms of previous occupancy of dwellings, associated application drawings, etc. and from my site inspection that the existing ruinous structure proposed to be redeveloped on this site was a former dwelling. I further note that this former dwelling is derelict and that its original walls are substantially intact. It is reasonable to determine that the refurbishment of this derelict dwelling would require to be subject to the provisions of Cork County Development Plan as set out in Objective RCI 8-1. The concluding provisions of this objective are important to note, namely that Objective RCI 2-2 (i.e. the 'Rural Generated Housing Need' requirement) and Objective RCI 6-4 (i.e. Occupancy Clause) do not apply except where the total or substantial demolition of the existing structure and a new dwelling is proposed. In this instance, the total demolition of the existing structure and the development of a new replacement dwelling are not proposed.
- 7.2.3. Having regard to the above, it is reasonable to determine that the Development Plan provisions as they relate to rural generated housing need (Objective RCI 4-3) and to urban generated housing (Objective RCI 2-1) do not apply to this planning application.
- 7.2.4. In considering the proposed development relative to the provisions of Objective RCI 8-1, the following comments are made:
- The proposed development seeks to deliver a sensitive renovation of the former dwelling and careful conservation of the remaining structure.
  - The original walls of the former dwelling are substantially intact.
  - The structure was previously in use as a dwelling. The appellants have provided clear evidence of former occupancy and it is evident from an inspection of this structure that it was a former dwelling.

- It is reasonable to determine that the planning application details have ably demonstrated that the existing structure is physically capable of being renovated and converted as part of a redevelopment without the need for demolition of the structure.
- The applicant has presented a detailed Planning and Design Statement addressing the conservation of and extension to the former dwelling, as well as a Structural Assessment Report and a Conservation Report. It is very clear that the appropriate level of attention is being brought to the proposal in terms of maintaining and enhancing structural integrity and protecting the building at the construction phase.
- While the design will be addressed further in my assessment, suffice to indicate that the proposed design, scale and materials to be used represent sensitivity and a qualitative approach to developing a dwelling which would be exemplary in terms of how it seeks to be sympathetic to the character and setting of the former dwelling.
- I note that the landscape features of particular relevance to this site primarily relate to the topography and to the enclosure that is obtained from the natural stone walls framing the site. It is evident that the proposal is wholly respectful in maintaining the landscape character of this area in terms of siting, design, retention of existing features, etc.
- The site of the proposed development is not on, in or near any sites known to be used by protected wildlife.

7.2.5. In conclusion, I am satisfied to determine that the proposed development would be wholly in keeping with the provisions of Objective RCI 8-1 of Cork County Development Plan.

### 7.3. The Design, Scale and Servicing of the Proposed Development

It is my submission to the Board that the proposed development constitutes a high quality, sensitively designed, and most respectful redevelopment of the existing

structures on this site. It is apparent that every effort is being made to retain the integrity of the existing structures that remain, to extend an existing structure to form a new home in a most befitting manner which respects the historical form of the traditional long house, and ultimately presents a building of modest scale which satisfactorily integrates with the long-established buildings at this location that originally formed part of the clachan in Gortnaclasha.

There is a sensitive balance achieved with the proposed design of the dwelling, conserving the historic fabric and respectfully extending in a contemporary manner which wholly respects the form, character and scale of the existing structure. Indeed, I consider it reasonable to determine that the design seeks to emphasise the existing structure, with the new additions effectively being somewhat subservient as they step down southwards through the site. The strategies being employed, in terms of design, orientation, layout, etc. to maximise energy conservation, together with the palette of materials selected, will ensure the delivery of a sustainable rural dwelling.

It is my submission to the Board that the design of this proposed development forming the house clearly demonstrates that the integration of vernacular and contemporary is achieved. The footprint for the new build, extending along the long axis in a traditional manner, maintaining a shallow floor plan, stepping the roof down from the original structure, etc. each combine to attain a new home which is entirely rural in character and form. There is no attempt to flout or exploit the high quality vistas that otherwise could be achieved southwards by reorientating the new additions.

With regard to the proposed studio, it is my submission that this represents a small outbuilding which is sensitively located in a well screened peripheral section of the site. It again is of simple form and does not seek to present as any prominent structure on the landscape. It is somewhat secluded, bounded by the ruinous structure of a former house and the natural stone walls forming the site's boundary.

The planning authority has raised the concern of overdevelopment in its decision. There was no structured attempt to demonstrate how the proposed development would constitute overdevelopment of this site. It is evident that the site would accommodate adequate amenity space to serve the needs of the occupants of this property while at the same time providing for basic services in the form of access,

parking, effluent treatment, water supply, etc. I cannot reasonably determine that the proposed development would constitute overdevelopment of this site having due regard to these observations.

Finally, I note the confined nature of the site when regard is being had to the provision of effluent treatment facilities. A number of observations need to be made in relation to this issue. It is first acknowledged that the proposed development constitutes the refurbishment of and extension to a derelict dwelling to make it a habitable structure to meet modern needs. The proposed treatment system would be on the lower part of the site away from the proposed well. There would be no inhabited structures other than the proposed house in the vicinity of the location for the treatment system. All inhabited houses in the vicinity are upgradient and distant from the location for the proposed treatment system. The trial hole open on this site indicates that a free draining soil exists and there is no evidence of any significant rock at the location of the proposed treatment system or rock outcrop throughout the site. The results from the trial hole test showed there was no water ingress. A satisfactory T-test was attained. In deference to the restricted nature of the site, the appellants have opted for a package treatment plant with a soil polishing filter instead of a conventional septic tank system. I note that the effluent treatment tank would be in excess of 8 metres from the house and the sand polishing filter would be a minimum of 10 metres from the house. I also note that the planning authority's Area Engineer had no objection to this proposal. It is my submission that this is an appropriate response to meet the service needs of residents of the dwelling.

In conclusion, I am of the opinion that the design, scale and servicing arrangements of the proposed development are sensitive and appropriate and they constitute sustainable development.

## **8.0 Recommendation**

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

## 9.0 Reasons and Considerations

Having regard to the existence of a derelict dwelling on the site, the provisions of Cork County Development Plan as they relate to the refurbishment of a derelict dwelling, the sensitive design, layout, scale and character of the proposed development, the appropriate siting of the proposed studio, and the modest scale of the overall development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be injurious to the visual amenities for the area, would not result in overdevelopment of the site, and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed house and studio shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

**Reason:** In the interest of visual amenity

3. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

4. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

**Reason:** In the interest of pollution prevention and orderly development.

5. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document "Wastewater Treatment Manual: Treatment Systems for Single Houses (p.e. less than or equal to 10)", issued by the Environmental Protection Agency in 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling-house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and

is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Kevin Moore  
Senior Planning Inspector

6<sup>th</sup> January, 2021