



An
Bord
Pleanála

Inspector's Report ABP-308912-20

Development	House
Location	Doon East, Ballybunion, County Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/957
Applicant(s)	Karen Nash
Type of Application	Outline Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Karen Nash
Date of Site Inspection	17 th February, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is located at the northern end of the town of Ballybunion in County Kerry. It has frontage onto the northern side of Regional Road No. R551, which is a principal entrance to the town. The approach to the town at this location is characterised by linear detached houses along its northern side and linear and some in-depth housing along its southern side. The site is a relatively flat plot that is fenced and originally formed part of a larger field. The site frontage lies within the 60kph zone for the town. The site is enclosed by a ditch and hedgerow to the front and along its western flank and by fencing along the east and rear site boundaries. The site has panoramic views north and north-westwards to the coastline. There is a single-storey dwelling immediately to the west of the site and a dormer dwelling a short distance to the east.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a single storey dwelling and would provide for a new vehicular entrance and connection to public services.
- 2.2. Details submitted with the application included a design statement and a copy of a letter from the landowner giving consent to the making of the application. Details in the design statement included reference to the applicant's rural housing need.

3.0 Planning Authority Decision

3.1. Decision

On 3rd December 2020, Kerry County Council decided to refuse permission for the proposed development for two reasons relating to consolidating ribbon development and failure to satisfy a 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 Irish Water's submission. It was acknowledged that the site is within a rural area designated a 'Rural Area under Strong Urban Influence' in accordance with the Kerry County Development Plan. It was considered that the site is within a very sensitive coastal area and that there is an excessive density of ribbon development in the area. It was submitted that if permitted the development would create an infill site to the east. The proposal was seen to extend and consolidate the pattern of ribbon development in the area and would blur the lines between countryside and town, setting a precedent and impacting negatively on the character of the landscape. It was noted that the applicant owns a house in Ballybunion town and it was submitted that the planning authority is not satisfied that the applicant complies with current rural settlement policy. A refusal of permission was recommended.

3.3. **Prescribed Bodies**

Irish Water requested the signing of a connection agreement relating to water and wastewater and the development to be carried out in compliance with its standards and codes.

4.0 **Planning History**

P.A. Ref. 07/3575

Outline permission was granted for a house and septic tank.

P.A. Ref. 08/2035

Permission consequent on a grant of outline permission was granted for a house with connection to the public foul sewer.

P.A. Ref. 13/723

Permission for a house with connection to the public foul sewer was refused.

5.0 Policy Context

5.1. Kerry County Development Plan 2015-2021

Landscape

The site is located within an area zoned 'Rural General'.

Objectives for landscape protection include:

ZL-1: Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to peoples' lives.

ZL-4: Regulate residential development in rural areas in accordance with the zoned designation of that area and the policies outlined in the Rural Settlement Strategy set out in Section 3.3 of the Plan.

Table 3.7 of the Plan comprises the amenity zoning settlement policy. It is a requirement within an area designated 'Rural General' that a proposed dwelling is used as a permanent place of residence.

Rural Settlement

The site is located within an area designated a Rural Area under Strong Urban Influence. The Plan objectives relating to this rural area include:

RS-7: Ensure that favourable consideration is given to individual one-off house developments for immediate family members (sons, daughters or favoured niece/nephew) on family farms and land holdings; subject to compliance with normal planning criteria and environmental protection considerations.

RS-9: Facilitate the housing requirements of the rural community as identified while directing urban generated housing into the towns and villages.

Note: The site lies to the north of and beyond the development boundary designated for the town of Ballybunion as set out in the Listowel/Ballybunion Functional Area Local Area Plan.

5.2. **Appropriate Assessment**

The site of the proposed development is located within the serviceable urban area of Ballybunion where there is extensive residential development. This is a location which is separated from the Lower River Shannon SAC (Site Code: 002165) by roads, residential properties and agricultural lands. Having regard to the nature, scale, and location of the proposed development, the serviced nature of the development, the nature of the receiving environment, and the 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.

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. The submission of an EIAR is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of the appeal may be summarised as follows:

Reason 1

- The site is located only a few hundred metres beyond the edge of Ballybunion development boundary, within a 60kph speed limit zone and is serviced by public foul sewer and watermains.

- The area is already built up in an urban type mix of single houses of various heights and designs. The area on the other side of the road takes the form of housing estate type developments.
- The area creates a well-established housing cluster on the outskirts of the town and not ribbon development.
- The addition of a sensitively designed single storey dwelling, combined with the appellant's rural housing need, would align with the policies of the development plan.
- The previous application established that a development on the site would not have a likely impact on Natura 2000 sites and was not considered to be significant within the context of the relative abundance of natural resources in the area.
- The existing pattern of development significantly breaks the visual line to the sea and the additional dwelling would not constitute an additional detrimental effect to the visual environment.
- Reference is made to a precedent, P.A. Ref. 12/318, permission for a house south-west of the site on Doon Road in a rural area under strong urban influence.

Reason 2

- The appellant is a native of Doon East and comes from the area immediately opposite the site where her family home is located.
- The appellant's grandfather was the original owner of the field across the road, giving each of his six daughters a site. Her grand uncle owned the adjacent field and that area is populated with her aunts, uncles, cousins and extended family. The subject site was originally owned by her grandfather's cousin.
- The appellant wishes to relocate near her elderly parents to care for them.
- The appellant owns a house at The Greens Holiday Village. It is the only property she owns and is an investment property. It was never intended as a family home but due to a change in family circumstances she has temporarily

relocated to the property with her two children. The house is a small, two-storey, terraced unit and is built to a low speculative standard, intended as only a short term holiday rental. It is unsuited as a long-term family home and it is intended to sell the property in order to fund the build of the new house.

6.2. Planning Authority Response

I have no record of any response by the planning authority to the appeal.

7.0 Assessment

- 7.1. I first acknowledge that the site of the proposed development is located outside of the Ballybunion development boundary as set out in the Listowel/Ballybunion Functional Area Local Area Plan. The northern extremity of this boundary is several hundred metres south of the site. This, therefore, leaves the site being within what is understood to be a rural area outside of this settlement. Notwithstanding this, it would be remiss of me not to observe how the planning authority has guided the development of this area, which is a principal approach into the town from the north and east. This is a fully serviceable area. The proposed development would be served by a mains water supply and a public foul sewerage system. The site lies well within the 60kph speed limit zone of Ballybunion. This is a location which has been permitted to develop in a form that presents as linear housing along the northern side of the regional road and with detached and in-depth housing along its southern side. It is important to note that such in-depth development includes the development of a housing estate, Seafort, which is further east of this site with direct estate access onto the regional road. There is further linear housing immediately to the east of this site and to the west. Between the site and the defined development boundary of Ballybunion there is a holiday home park, a private road off which there is more developed detached houses, and there is further linear housing fronting onto the road. The proposed development would present as an infill development.
- 7.2. Having regard to how the planning authority has been guiding and controlling the pattern of residential development at this location, it is evident that the nature and extent of such development could not reasonably be viewed as being guided by

controls which seek to curtail rural house development within a 'rural area under strong urban influence'. It could not be construed as balanced or consistent to refuse permission for the proposed development given how development at and in the vicinity of this site, and notably further east of this site, has been, and is being, facilitated within this serviceable area within the speed limit control zone for Ballybunion. The proposed development would not be out of character with the pattern of development at this location, indeed it would be consistent with it. It does not appear to be consistent or fair to seek to judge this proposal against the provisions of the Development Plan as they relate to a house within a designated rural area under strong urban influence when what has been permitted to develop at and beyond this location further out from the town is observed.

- 7.3. Further to the above, I note that there are no specific plans or provisions for any future development of this area. The proposed development would, thus, be consistent with the type of development which prevails and it would not undermine any development intention for this area.
- 7.4. In conclusion, a refusal of permission cannot be reasonably warranted. This conclusion is reinforced by the understanding that this site has previously been determined by the planning authority to be suited to the development of a house, as is evidenced by the grant of outline planning permission under P.A. Ref. 07/3575 and the grant of permission consequent on this grant of outline permission under P.A. Ref. 08/2035.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the planning history of the site, to the pattern of established development in the area, to the serviceable nature, scale and layout of the proposal, it is considered that the proposed development, subject to the conditions set out below, would not adversely impact on the amenities of area, would be acceptable in

terms of traffic safety, and would otherwise be in accordance with the orderly development of the town of Ballybunion. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The plans and particulars to be submitted by way of an application consequent on the grant of this outline permission shall include the following:
 - (a) a site layout plan showing the layout of the house, driveway, entrance, and adjoining residential properties,
 - (b) a house design for a single storey or dormer type dwelling,
 - (c) details of the finished floor level of the house by reference to existing site levels and road level at the proposed entrance,
 - (d) landscaping proposals for the site,
 - (e) details of external finishes, and
 - (f) connection proposals to public watermains and the public foul sewerage system.

Reason: In the interest of clarity and to enable the application to be fully assessed.

2. The proposed dwelling shall be occupied as a place of permanent residence and shall not be used as holiday home development without the prior grant of planning permission.

Reason: In the interest of providing for local permanent housing need within the town.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

5. All service cables associated with the proposed development shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenity of the area.

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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Kevin Moore
Senior Planning Inspector

24th February 2021