



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309185-21

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<b>Development</b>	Construct a dwelling, detached garage and all associated site works.
<b>Location</b>	Ballyfin, Cloyne, Co. Cork,
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	205952
<b>Applicant(s)</b>	Vincent O Donovan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Tony Kelleher, Mary O Mahony Kelleher, Mark Kelleher & Sean Kelleher.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	31 <sup>st</sup> March 2021.
<b>Inspector</b>	Bríd Maxwell

## **1.0 Site Location and Description**

- 1.1. This appeal relates to a rural site located within the townland of Ballyfin which lies circa 9.5km southeast of Midleton and 3km south of Cloyne Village in East County Cork. The site is located within an elevated open landscape and forms part of a larger agricultural field pattern enjoying extensive views to the north and east.
- 1.2. The northern and eastern site boundaries are undefined while the boundary to the south is defined by mature treeline. A dormer type dwelling site adjoins to the south. The area is rural and agricultural in character with sporadic housing development.

## **2.0 Proposed Development**

- 2.1. The application as set out involves permission for construction of a single storey dwelling 191sq.m, a detached garage 74sq.m and all associated site works. The proposed dwelling adopts a contemporary design with external finishes to include painted napped render finish with charred hardwood cladding and blue-black slate to roof.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 16<sup>th</sup> December 2020 Cork County Council issued notification of its decision to grant permission and 16 conditions were attached which included the following of particular note.

Condition 2 Occupancy

Condition 3 Development Contribution €3,705.34

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

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

Planner's initial report sought additional information with regard to "local need" a demonstration of requisite separation distances with regard to the proposed wastewater treatment system and landscaping proposals.

### 3.2.2. Other Technical Reports

Area Engineers' report recommends further information to include site layout showing minimum separation distances in respect of wastewater treatment unit to demonstrate compliance with EPA Code of practice. Second report indicates no objection subject to conditions

### 3.3. Prescribed Bodies

No submissions

### 3.4. Third Party Observations

Submission by Gordon Warner, Planning Consultant on behalf of Tony Kelleher, Mary O Mahony Kelleher, Mark Kelleher & Sean Kelleher.

Objects to the development on grounds of ribbon development rural housing policy. Overlooking and Loss of privacy. Alternative more suitable sites are available within the landholding. Location of treatment unit is of concern. Details on drawings are incomplete.

## 4.0 Planning History

No planning history on the appeal site.

## 5.0 Policy Context

### 5.1. National Planning Framework.

**Policy Objective 19.** 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 spatial 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;

In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

## 5.2. **Development Plan**

The Cork County Development Plan 2014 refers. The site is located within a rural area under strong urban influence. **County Development Plan Objective 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.

### 5.3. **Natural Heritage Designations**

The site is not within a designated site. Those in the vicinity include

Cork Harbour SPA within 3.6km

Ballycotton Bay SPA 6.2km

Great Island Channel SAC 6.6km

### 5.4. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental assessment can therefore be excluded at preliminary examination.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1 The appeal is submitted by Mr Gordon Warner Planning Consultant on behalf of Tony Kelleher, Mary O Mahony Kelleher, Mark Kelleher & Sean Kelleher who reside at the dwelling adjacent to the south of the appeal site. Grounds of appeal are summarised as follows:

- Privacy conflicts. Concerns arise regarding overlooking particularly of rear garden area.
- Alternative sites would be available within the landholding.
- Sets a precedent for further development and potential to give rise to ribbon development
- Road safety hazard.

- Location of treatment unit just within regulation distancing requirements.

## 6.2. Applicant Response

The response by CMG Architectural Design Technology and Building Surveying on behalf of the first party is summarised as follows:

- Applicant has provided evidence demonstrating social and economic links to this area.
- Proposal is clearly not ribbon development and will integrate into the landscape by way of siting design and landscaping. Proposal does not create an infill site.
- Proposal maintains the privacy and seclusion of the appeal dwelling. Location of garage ensures no line of sight from bedroom 2 and kitchen dining area to the rear of the adjacent dwelling. Distance to the boundary and landscaping will mitigate impact.
- No evidence of traffic hazard. Sightlines are readily achieved.
- Percolation area is more than 40m from the adjacent dwelling well over the minimum requirement.

## 6.3. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

## 6.4. Observations

None

## 7.0 Assessment

7.1 From my review of the file, all relevant documents, an inspection of the site and its environs, I consider that the main planning issues for consideration in the Board's assessment of the appeal may be considered under the following broad heading:

- Settlement Strategy – Planning Policy
- Ribbon development, Visual Impact and Impact on residential amenity
- Servicing, Wastewater Treatment & Traffic
- Appropriate Assessment

### 7.2 Settlement Strategy – Planning Policy

7.2.1 The relevant rural housing settlement policy is set out within the Cork County Development Plan 2014 wherein the site lies within an area under strong urban influence. These areas are under significant pressure for rural housing therefore the applicant must satisfy the Planning Authority that their proposal constitutes a genuine rural housing need based on social or economic links to a particular area. The categories of housing need as set out at RCI 4-2 include the following:

- 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.

In terms of the National Planning Framework Policy Objective 19 seeks to ensure that in providing for the development of rural housing, a distinction is made between areas under urban influence. 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 spatial 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;

7.2.2 The first party has contracted to purchase the site from the landowner (no relation). It is outlined that the first party lived for the period 1999-2007 at a house within the rural area circa 4km to the north east of the site. I note that documentary evidence provided in response to the request for additional information includes a letter from the solicitor who acted on behalf of the applicant's father in respect of the purchase of the site of the former rural home on 14<sup>th</sup> December 1999 and subsequently dealt with the sale of the property on 11<sup>th</sup> May 2007. Following the sale the applicant moved with his mother to Cloyne village in 2007. I note that the first party is self-employed as a carpenter and therefore there is no clear work or economic need to live at this location. I consider that whilst clearly there is a strong local connection, there is no demonstration of an exceptional rural generated need or that the housing need could not be met within a town or village settlement. I consider that on the basis of the documentation submitted the proposal does not constitute an exceptional rural housing need in the context of the development plan policy and National Policy Framework Objective 19.



### **7.3 Ribbon development, visual impact and impact on established residential amenity.**

**7.3.1** The third-party appellant raises the issue of ribbon development. The proposal if permitted would constitute a fourth dwelling within 250m and would not therefore constitute ribbon development. As regards visual impact whilst the site is currently open and exposed to the north and east, I am satisfied that the low profile of the dwelling, the backdrop of established trees to the south and subject to additional landscaping measures the visual impact arising is not significant. As regards impact on established residential amenity given the separation distance from the house to the south no overlooking issues arise and there is in my view no reasonable basis to present a case of any negative impact on established residential amenity.

### **7.4 Servicing - Wastewater Treatment and Traffic**

**7.4.1** I note that the applicants propose to provide a proprietary wastewater treatment unit to serve the dwelling. I note that the site characterisation form describes the main site characteristics. In the trial hole excavated to 2.1m below ground level, neither water table nor bedrock were encountered. Soil profile is noted to comprise deep loam topsoil with gravelly silt with clay cobbles and occasional boulders from 0.4m and gravelly silt with frequent cobbles and boulders from 0.7m. Site layout submitted in response to the request for additional information demonstrates compliance with minimum separation distances as set out in Table 6.1 of Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e£10) (EPA 2009).

**7.4.2** As regards traffic safety the site abuts a quiet local road and sufficient sightlines are readily achievable. I consider that given the scale of traffic arising from a single

dwelling there is no basis for the assertion that the proposed development would give rise to a traffic hazard.

## **7.5 Appropriate Assessment**

7.5.1 Having regard to the nature and scale of the proposed development and nature of the receiving environment there are no source pathway receptor routes between the site and any Natura 2000 sites 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. 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.

## **Recommendation**

Having considered the file and all submissions and having visited the site, I recommend that permission be refused for the following reasons and considerations.

## **Reasons and Considerations**

1. Having regard to the location of the site within an area under strong urban influence as designated within the Cork County Development Plan 2014, and to National Policy Objective 19 as set out in the National Planning Framework 2018, adopted by the Government, in relation to rural areas under urban influence which states that is the 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....having regard to the viability of smaller towns and rural settlements.” Based

on the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area or that the applicant's housing needs cannot be met in a town or settlement. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the County Development Plan and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Cork County Development Plan 2014 and to over-arching national policy, would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure, would negatively impact on the viability of smaller towns and villages and would, therefore, be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell  
Planning Inspector

20 April 2021