



An
Bord
Pleanála

Inspector's Report ABP 309437-21

Development	Dwelling House
Location	Teernaboul, Killarney, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/892
Applicant	Siobhan Duggan
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	R. Willis and N. O'Kelly
Observer(s)	None
Date of Site Inspection	29/03/21
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.191 hectares, comprises part of a larger field within the townland of Teernaboul c. 4km to the north-east of Killarney town centre. It is setback from the public road and is accessed via a driveway which provides access to both the applicant's family home and a 2nd dwelling located to the south-east. This latter dwelling presents as 1 of 3 dwellings to the south-east with the other two accessed from a local road to the east. The family home is part two storey with the dwellings to the south-east a mix of single and 2 storey in design.

The field in which the site is located slopes steeply down from north-east to south-west and is afforded views of the Killarney Lakes to the west. The field boundaries are delineated by hedgerows. There is a band of mature trees along the north-eastern field boundary.

The general area of the site is characterised by a significant level of one off housing ribboning along the local road network.

2.0 Proposed Development

The application was lodged with the planning authority on the 28/09/20 with further plans and details submitted 14/12/20 following a further information request dated 19/11/20.

As amended, the proposal entails the construction of a single storey dwelling comprising of two sections linked by a corridor. The dwelling has a stated floor area of 228.9 sq.m. with a ridge height of 5.258 metres.

The dwelling is to be served by a septic tank and percolation area. The site characterisation form accompanying the application recorded a T-value of 28.31 and P-value of 27.

Water supply is proposed from mains source.

A landscaping scheme was submitted by way of further information.

The site is adjacent to the applicant's family home. The applicant is from the area and lives in the family home. She works in the family business based in Millstreet. Her husband works remotely for a company based in Blackpool. Due to medical

reasons she wishes to live adjacent to the family home for future family support. The design of the dwelling has been influenced by her medical condition and is future proofed for any potential accessibility needs.

Note: the public notices do not refer to the installation of the effluent treatment system.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 15 conditions. Of note:

Condition 6: Dwelling to be 1st occupied as permanent residence by the applicant/applicant's family for a period of 7 seven years. Applicant to enter into written agreement under section 47 to this effect.

Condition 7: Use of dwelling to be as a primary permanent all year round residence. It shall not be used as a holiday home or 2nd home.

Condition 13: Dwelling to be landscaped in accordance with scheme received on 14/12/20 and to be carried out within the 1st growing season following occupation of the dwelling.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report includes EIA Preliminary Examination and AA Screening. There are concerns that the dwelling would be visually obtrusive when viewed from the lower lying lands to the south. Further information required to address these concerns including the erection of sight poles and submission of a comprehensive landscaping scheme.

The 2nd report (countersigned) following further information considers that the issues arising have been satisfactorily addressed. Whilst it will be visible from the lower lands to the south it will not be visually obtrusive relative to the family dwelling. There is a substantial tree line to the north which will provide an adequate back drop.

The landscaping scheme is acceptable. The applicant meets the criteria set out in the rural settlement policy. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Site Assessment Unit, Environment Section has no objection subject to conditions.

Biodiversity Officer identifies no possible significant effects on European Sites(s) or the Woodford River which is a considerable distance away. The landscaping proposals are acceptable. Where possible, existing mature hedgerows should be retained.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. Third Party Observations

An objection to the proposal received by the planning authority is on file for the Board's information. The issues raised relate to settlement location policy, visual impact, precedent and impact on amenities of adjoining property.

4.0 Planning History

As per the details given in the Planner's report, I note that four applications pertain to the site. Outline permission was granted for a dwelling under ref. 97/2026.

Subsequent applications for approval on foot of the outline were refused by the Board under refs PL08.119069 and PL08.129266 in 2000 and 2002 respectively. Further permission for a dwelling was refused by the planning authority under ref. 03/1191.

5.0 Policy Context

5.1. National Planning Framework

Policy Objective 15: Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

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 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;
- 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

Kerry County Development Plan 2015

RS-1 ensure that future housing in all rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG) and the Development Guidance document of this plan.

RS-2 require the design of rural housing to have regard to the 'Building a House in Rural Kerry: Design Guidelines' (KCC 2009).

RS-4 ensure that the provision of rural housing will protect the landscape, the natural and built heritage, the economic assets and the environment of the County.

RS-5 ensure that future housing in all rural areas complies with the EPA's 2009 Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses.

RS-6 ensure that all permitted residential development in rural areas is for use as a primary permanent place of residence. In addition such development shall be subject to the inclusion of an occupancy clause for a period of 7 years.

The site is located within an area designated as a Rural Area under Strong Urban Influence.

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.

The site is within an area designated Rural General. This is considered to be the least sensitive landscape and from a visual impact point of view has the ability to absorb a moderate amount of development without significantly altering their character.

5.3. **Natural Heritage Designations**

The Woodford River which forms part of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC is c.1km to the south of the appeal site.

5.4. **Environmental Impact Assessment**

Having regard to the nature and extent of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The 3rd Party appeal by R. Willis and N. O’Kelly can be summarised as follows:

- The applicant works in Millstreet 30km from the site.
- The site is within an area designated as being Under Strong Urban Influence in the current Kerry County Development Plan.
- Objective 19 of the NPF requires that single houses in areas under urban influence be facilitated on the core consideration of demonstratable economic or social need to live in a rural area and siting and design.
- The proposal runs counter to large sections of the Building a House in Rural Kerry Design Guidelines.
- The documentation provided with the application is inadequate. No details are given as to the proposed external finishes with no site sections and contiguous elevations. There is no indication of the extent of cut and fill that will be required.
- The site is elevated and visually exposed. The proposal will be visually intrusive as a result of its failure to integrate with the surrounding landscape.
- The proposed dwelling with a floor area of 230 sq.m. is considered to be extensive. The scale of the dwelling would be excessive and overbearing.
- An accurate reflection of the impact of the proposed dwelling cannot be gained from sight poles. A landscaping plan with earthen mounds nor the size and bulk of the applicant’s parent’s house provide reasoned justification for the site chosen.
- The proposal would further exacerbate an already excessive density of suburban type development in a rural area.
- The proposed wastewater treatment system, taken in conjunction with existing developments, risks an excessive concentration of sites served by individual systems.

- There are sufficient lands available within her parents' site to accommodate a dwelling without having to building on this pristine agricultural setting.
- There is a significant planning history on the site. The planning authority's decision does not have due regard to the previous Board's decisions.

6.2. Applicant Response

The submissions by the applicant and Padraig Murphy Consulting Engineer on her behalf, which are accompanied by supporting documentation, can be summarised as follows:

- On the basis of the planning history the site could be deemed to have a certain zoning.
- The proposed dwelling has the same building line as the family dwelling adjacent.
- It cannot be seen from the public road. It is only visible via a gap along a boundary of a small residential scheme to the south-east.
- The site is in family ownership.
- The applicant qualifies in terms of the settlement location policy for the area as set out in objective RS-7.
- The applicant needs to live adjacent to her family home on medical grounds. Section 4.2 of the Rural Housing Guidelines is applicable. The dwelling has been designed as single storey to future proof her home in terms of accessibility. She works remotely from home.
- The planning authority addressed the issue of visual amenity. Sight poles were erected and checked from all vantage points. A comprehensive landscaping scheme has been submitted.
- The proposed dwelling is much smaller than the family dwelling. It has been designed to address the issues raised in the previous applications. There is a maximum of 300mm dead work visible whereas there was 1.5 metres in the previous applications. The bulk of the dwelling has been reduced by its division into two sections. The application has no objection should the Board

decide that the dwelling should be lowered. This would mean a cut into the bank to the rear which could be camouflaged and would be screened by the dwelling.

- The proposal would not have a negative impact on the amenities of property in the vicinity.

6.3. Planning Authority Response

No further comment

6.4. Observations

None

7.0 Assessment

I submit that the issues arising in the case can be assessed under the following headings:

- Compliance with Settlement Location Policy
- Siting and Visual Impact
- Site Servicing
- Appropriate Assessment - Screening

7.1. Compliance with Settlement Location Policy

At the outset whilst I note the reference to a grant of outline permission on the site, this dates back to 1997/1998 and has expired. It also predates the Sustainable Rural Housing Guidelines 2006, the current County Development Plan 2015 and the National Planning Framework 2018.

The site is within a rural area identified as being under strong urban influence in the current County Development Plan. In view of the site's proximity to Killarney and its obvious attractiveness for urban generated housing demand this designation is considered to be entirely reasonable. As noted on day of inspection the general area of the site is characterised by material levels of one off housing ribboning along the local road network.

I note that the said development plan has due regard to the Rural Housing Guidelines of 2005 with objective RS-1 requiring that future housing in all rural areas comply with the provisions therein.

The National Planning Framework post-dates the said development plan and addresses rural housing. Of particular note 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 whilst sustaining vibrant rural communities. In addition, National Policy Objective 19 seeks to facilitate the provision of single housing in the countryside in areas under urban influence based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the siting and design criteria for rural housing in statutory guidelines and plans and to the viability of smaller towns and rural settlements.

The current development plan allows for a presumption in favour of immediate family members (sons, daughters or favoured niece/nephew) seeking permission for a dwelling on family farms and land holdings in such designated areas.

Notwithstanding, in view of the pattern of development in the area to date and the above national policy provisions, I submit that a high bar must be set in terms of demonstrating an applicant's need to have a house at this location based on genuine economic and/or social need so as to ensure the responsible management of the land resource in an area under pressure from one off housing.

I note from the details accompanying the application that the applicant owns the site which is immediately adjacent to the family home. She is employed in the family business located in Millstreet c. 30km away although she is now working remotely from home. Her husband also works remotely with his employer stated to be based in Blackpool Co. Cork.

The substance of her case is based on her medical circumstances and the needs to future proof her requirements in terms of family assistance, details of which are provided. Whilst I empathise with the applicant's circumstances the current Development Plan which, as noted above, has regard to the provisions of the Rural Housing Guidelines, does not provide for such considerations. As to whether her requirements could be met at an alternative location within the urban settlement of Killarney which is in such close proximity has not been addressed or assessed.

I submit that whilst the applicant may meet the settlement location policy of the current development plan, she does not appear to have a need to reside at this location on the basis of an economic or social imperative. On the basis of the information on the file it cannot reasonably be concluded that there can be any entitlement bestowed on the applicant for a house on this site. I therefore recommend a refusal of permission on this basis.

7.2. Siting and Visual Impact

The site, whilst not within an area designated as being of scenic amenity in the current county development plan, has an innate quality and has visual merit in its own right. As per the County Development Plan the site is within an area classified as Rural General which is considered to be the least sensitive landscape, and which has the ability to absorb a moderate amount of development without significantly altering its character.

The Kerry Rural Design Guide: Building a House in Rural Kerry, to which regard must be had as per objective RS-2 of the plan, places an emphasis on the importance of design within the landscape and of siting of development to minimise visual intrusion. These principles are reiterated in section 12.3.1 of the development plan which states that it is important that development in such areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development.

Whilst I note the appellants' critique as to the adequacy of the documentation, I consider that there is sufficient detail in the drawings accompanying the application to allow for a proper assessment in this context. In addition whilst no details are provided as to the proposed external finishes as noted by the appellants, this oversight could be addressed by way of condition should the Board be disposed to a favourable decision.

The site, subject of the application, comprises the most elevated position in the field and affords views of the Killarney Lakes to the west. The dwelling, single storey in design with a ridge height of 5.258 metres, is to have a building line comparable to the family dwelling immediately adjacent and will entail a maximum cut of in the region of 1.7 metres to the rear (north-east) and fill of 0.3 metres to the front (south-

west). Following further information sight poles were erected with a detailed landscaping plan submitted including earthen mounds to assist in screening.

Views of the site are largely restricted to the south and due to the topography of the surrounding road network and roadside vegetation are limited to the small residential enclave to the south. I submit that in the context of the existing residential development in the immediate vicinity, with specific note of the family dwelling adjacent to the proposal, to the mature band of trees to the north which provide a backdrop and the three dwellings at higher levels to the south-east, the proposal would not give rise to material concerns in terms of visual intrusion or adverse impacts on the visual amenities of the area as to warrant a refusal of permission on such grounds.

In view of the setback from the dwellings to the south-east and the intervening band of mature trees their amenities would not be adversely impacted upon.

7.3. Site Servicing

The application is accompanied by a Site Characterisation Form in which no water was noted in the trial hole with T and P values of 28.31 and 27 recorded respectively. Ground conditions were noted to be dry underfoot on day of inspection. The site is deemed suitable for a septic tank and percolation area. The Site Assessment Unit Environment Section raised no concerns as to the adequacy of the site to accommodate the development.

Whilst in proximity to the family dwelling which would be served by an effluent treatment system, the location of which is not delineated on the plans accompanying the application, I do not consider that there are over riding concerns pertaining to the proliferation of systems in the vicinity in view of the relative separation of the site from the nearest dwellings to the south-east.

7.4. Appropriate Assessment – Screening

The site is c. 1km to the north of the Woodford River which forms part of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC.

Having regard to the nature and scale of the proposed development and the distance from the said designated site no Appropriate Assessment issues arise, and it is not

considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the location of the site within an Area Under Strong Urban Influence as designated in the current Kerry County Development Plan 2015 – 2021 and having regard to the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and National Policy Objective 19 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, the Board is not satisfied that the applicant come within the scope of the housing need criteria as set out in the Rural Housing Guidelines for a house at this rural location or comply with National Policy Objective 19. The proposed development, in the absence of a demonstrable economic or social 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 Sustainable Rural Housing Guidelines for Planning Authorities and rural policy provisions of the National Planning Framework, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Senior Planning Inspector

April, 2021