



An
Bord
Pleanála

Inspector's Report ABP 310051-21

Development	Demolition of ruinous dwelling/shop including decommissioning of unauthorised septic tank and construct new dwelling, detached hobby/studio annex and wastewater treatment system.
Location	Rerrin, Bere Island, Beara, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	21/00077
Applicants	Sinead & Thomas Hennessy
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. Refusal
Appellants	Sinead & Thomas Hennessy
Observer(s)	None.
Date of Site Inspection	09/07/21
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.092 hectares, is in Rerrin which adjoins Lawrence Cove at the eastern end of Bere Island. Rerrin is characterised by a cluster of buildings including a shop, pub, guest house and private houses of single, 1 ½ and 2 storey designs.

The site comprises of a ruinous, semi-detached dwelling with a small outhouse to the rear. The dwelling to which it is attached is also in a ruinous condition with remnants, only, of the structure evident.

The site slopes southwards away from the road and is largely overgrown. It is higher than the rear garden area of the property to the west (Dessie's Bar). The lands to the south are undeveloped. There is a line of dwellings on the opposite side of the road with their building line up to the narrow footpath. There are terraces of dwellings further east which appear to have been previously associated with the military base on the island.

2.0 Proposed Development

The proposal seeks the demolition of a ruinous, semi-detached dwelling and construction of a 1 ½ storey dwelling with a stated floor area of 133.2 sq.m. and height of 7.51 metres. The dwelling is to be served by a wastewater treatment system and polishing filter. A detached studio with a floor area of 26 sq.m. is to be constructed to the rear of the site.

The applicants live in Douglas, Cork. They propose to reside permanently and work from the proposed dwelling.

From the characterisation form accompanying the application no water was encountered in the trial hole with a P-value of 7.69 recorded.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for 1 reason which can be summarised as follows:

In the absence of local housing need the applicants do not constitute an exception to the restriction on new dwellings within the area which is designated as a tourism and rural diversification area. The proposed development would materially contravene objectives RCI 2-2, RCI 4-3 and RCI 8-1 of the County Development Plan and would be contrary to the Rural Housing Guidelines 2005.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Area Planner's** report can be summarised as follows:

- Concerns of loss of amenity, loss of light or overshadowing are not accepted. The dwelling previously granted on the site noted.
- The dwelling design is acceptable.
- The artist's studio is not proposed as a commercial operation. A planning condition could control this aspect.
- The lawful use of the site as a dwelling/shop has long since disappeared.
- Compliance with objective RCI 2-2 required. The applicants do not have ties to the area.
- De-population and/or the threat of depopulation of the island should always be a matter of concern.
- The West Cork Municipal District LAP does not identify any settlement boundary at Rerrin or anywhere on Bere Island. Potentially Rerrin could have a settlement boundary drawn around it or have a 'village nuclei'. Had this been the case there is a strong argument that the site would be seen as being within the settlement.
- The merits of the application are not black and white especially given the previous grants of permission.
- It is not possible to guarantee that it won't be used as a second/holiday home.

A refusal of permission on policy grounds recommended.

3.3. Other Technical Reports

Area Engineer recommends that the northern frontage of the site be moved a minimum 1.8 metres back from the edge of the road and provision of a footpath. Water supply to be from Department of Defence system. The proposed waste water treatment system is acceptable. Conditions recommended should permission be granted.

Environment Section has no objection subject to conditions.

Conservation Officer notes that the proposal is opposite a structure which is included in the NIAH. No architectural heritage issues/concerns arise.

3.4. Prescribed Bodies

None

3.5. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to house design, impact on amenities of adjoining property and occupancy

4.0 Planning History

Reference is made in the Area Planner's report to permission granted on the site for a dwelling under ref. 08/375, the duration of which was extended under ref. 13/155. The permission expired in 2018.

5.0 Policy Context

5.1. National Policy

National Planning Framework, 2018

National Policy Objective 19 - to facilitate the provision of single housing in the countryside based on the core consideration of a demonstrable economic or social

need to live in a rural area, having regard to the viability of smaller towns and rural settlements.

5.2. Development Plan

5.2.1. Cork County Development Plan, 2014

The area is designated as being a High Value Landscape.

The site is within an area designated as a Tourism and Rural Diversification Area

Objective RCI 2-2: Rural Generated Housing

Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community.

Objective RCI 4-3: 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.

Objective 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. T

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.

Objective RCI 7-1: Demand for Holiday and Second Home Development

Recognise that sensitive scenic areas such as coasts, lakeside areas and uplands are limited in their capacity to carry very substantial levels of development and that such capacity as exists needs to be carefully managed to prioritise the needs of rural communities rather than for holiday and second home development.

Objective RCI 7-2 Holiday Home Accommodation

Encourage appropriately scaled holiday home development to locate within existing settlements, where there is appropriate infrastructure provision, where they can contribute to the maintenance of essential rural services and help act as a revitalising force in counteracting population decline.

Objective 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 this 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.

5.2.2. West Cork Municipal District Local Area Plan 2017

Section 5.2 deals with Bere Island as part of the West Cork Island Communities

It notes that the island is predominantly rural in character however there are a few key areas on the island where development and services are clustered. Historically

the grain of development has occurred primarily around Rerrin village where many services are located.

There is no settlement boundary delineated on Bere Island

The growth of holiday home or second homes can have a serious adverse effect on the vibrancy and sustainability of island communities and needs to be carefully controlled.

The key issue for the island is the need to reverse long term population decline and stabilise and increase the permanent population.

The development of second homes, except where existing dwellings are restored or extended, will be restricted.

It is acknowledged that there is a need to provide sustainable housing for permanent occupation. Preference will be given to the reuse/refurbishment of existing dwellings over new build.

5.3. Natural Heritage Designations

The site is c.1km to the north-east of the Beara Peninsula SPA.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by John O'Sullivan & Associates on behalf of the 1st party appellants can be summarised as follows:

- The proposal complies with county development plan and LAP policies and objectives.
- The current development is flawed in that it does not define the village of Rerrin. The Area Planner states that potentially Rerrin could have a settlement boundary drawn around or have village nuclei status.
- The site is within the village of Rerrin and does not contravene the policy objectives. The site was originally a dwelling and butcher shop.

- The issues raised by objectors to the application were dealt with extensively in the Planner's report. His views in this regard are supported.
- The Area Engineer, Environmental Unit and Heritage Unit had no objections.
- The applicants propose to reside on the site permanently. They have no objection to an occupation clause by way of condition.
- The applicants intend to work from their proposed home. There will be no public access to the proposed studio.
- The applicant proposes to undertake some bed and breakfast which would be of significant benefit to the island as accommodation is scarce in summer months.
- The threat of depopulation of the island is a matter for concern.
- The dwelling design is in keeping with the character of the existing village streetscape.
- The wastewater treatment system will be fully in compliance with EPA requirements.

6.2. Planning Authority Response

The response can be summarised as follows:

- The planning authority's decision was made on policy grounds. The applicants have no ties to the area.
- As the development involves the complete demolition of the former dwelling house, objective RCI 2-2 is clear that intrinsic local ties are required.
- Rerrin is not designated as a settlement. This is a conscious decision of the planning authority. The impacts of holiday or second homes and the implications of same on the social structure and fabric of the island are noted in the West Cork Municipal District LAP.
- There are no compelling reasons to divert from the established development plan policy.

- The applicants' proposals to move to the island permanently and to work from the new home are intentions, only.

6.3. Observations

None

7.0 Assessment

I consider that the issues arising in the case largely pertain to the applicants' compliance with the settlement location policy for the area.

The site is located in Rerrin which comprises one of two locations on Bere Island in which there are clusters of services and housing. Rerrin has developed around the pier at Lawrence Cove which is one of two points served by a ferry to the mainland. The cluster comprises a shop, pub, guest house and a number of dwellings.

I note that permission for a dwelling was previously secured on the site under ref. 08/375 the duration of which was extended under ref. 13/155. The permission lapsed in November 2018. The said permission was secured by the then site owner. The said application would have been assessed against the policies and objectives of the County Development Plan that pertained at the time (2003). The plan has been reviewed twice since (2009 and 2014) and the proposal before the Board must now be examined in the context of the provisions of the current plan.

The West Cork Municipal District Local Area Plan adopted in 2017 and which post-dates the current County Development Plan of 2014, sets out the policies and considerations for a spectrum of settlement sizes ranging from main towns to village nuclei and other locations. Rerrin is not referenced at any of the settlement levels. Bere Island is classified as West Cork Island Communities with no designated settlement and is noted to be predominately rural in character. The LAP notes that whilst the key issue for the island is the need to reverse long term population decline and stabilise and increase the permanent population, the adverse impacts that holiday/second homes can have on the vibrancy and sustainability of such an island community need to be carefully controlled.

The prevalence of holiday/2nd homes is evident on visiting the island. Thus, on the basis of the particular pressures that the island experiences and its obvious attractiveness for holiday/2nd homes it is reasonable to conclude that the omission of Rerrin as a designated settlement in the LAP was a deliberate policy decision by the planning authority. I consider this to be reasonable to allow for a level of assessment and control over the nature and type of development proposed in view of the particular sensitivities of the area. The matter of the designation of a settlement and its appropriate boundary is a matter for the development plan process. The setting aside of the relevant policies and objectives based on the view that the plan is flawed or that there is the potential for Rerrin to be assigned a settlement boundary in the future as suggested by the agent for the appellants would be counter to the appropriate plan led approach to development. I note that the current County Development Plan is under review through which the issue may be reviewed.

The LAP in restricting the development of second homes does allow for favourable consideration where existing dwellings are restored or extended. This is not the case in this instance. The dwelling on the site is in a ruinous condition with little of the structure remaining and is incapable of being restored. Therefore, the provisions therein are not applicable.

In view of the absence of a settlement boundary the application is required to be assessed against the rural housing policies as set out in the current County Development Plan 2014. Bere Island is within an area designated as a Tourism and Rural Diversification Area. I also note that National Planning Framework which postdates the said plan, by way of objective 19, seeks to facilitate the provision of single housing in the countryside based on the core considerations of a demonstrable economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements.

I submit that a high bar must be set in terms of demonstrating an applicants' 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 second/holiday homes and to protect the vibrancy and sustainability of the island community.

Development plan objective RCI 4-3 requires applicants to demonstrate compliance with one of a number of criteria in terms of housing need. In my opinion the appellants fail in this regard. They currently reside in Cork city with no family ties or connections to the area. They are not engaged in agriculture or other rural based occupations nor in permanent employment essential to be the delivery of social and community services.

The appellants make the case that they intend to reside permanently on the island. Mr. Hennessy intends to work remotely whilst Ms. Hennessy intends to run her lace making enterprise from the small workshop proposed to the rear in addition to offering guest accommodation in the dwelling. As above I submit that a high bar must be set in terms compliance with the objective RCI 4-7 that seeks to facilitate the housing needs of persons of their long term commitment to operate a “bona fide” full time business from their proposed home in the rural area. There is nothing in support of the application or appeal which demonstrates that their proposals are more than aspirations, are definitive and will be realised. There is no evidence that the businesses 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. The objective also requires that the applicant demonstrate their commitment to the proposed business through the submission of a comprehensive and professional business plan.

On the basis of the above assessment I conclude that there cannot be an entitlement bestowed on the applicants for a house on this site based on economic or social need. I therefore recommend a refusal of permission on this basis.

Other Issues

The dwelling design is comparable to other development in the vicinity. A small studio is proposed to the rear. I do not consider that the proposal will have an adverse impact on the amenities of adjoining property in terms of overlooking or overshadowing.

Sufficient evidence has been provided that the site can be served by a proprietary treatment system with polishing filter

Appropriate Assessment – Screening

Bere Island SPA is c. 1km to the south-west of the appeal site. 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

The site is located in Rerrin on Bere Island which is not designated as a settlement in the current West Cork Municipal District Local Area Plan, 2017 and is within an designated as a “Tourism and Rural Diversification Area” in the Cork County Development Plan, 2014. Development Plan objective RCI 4-3 sets out the criteria for rural generated housing need for this area. 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 to National Policy Objective 19 of the National Planning Framework issued by the Department of Housing, Planning and Local Government in February, 2018, it is considered that the applicants do not come within the scope of the housing need criteria of objective RCI 4-3 of the Cork County Development Plan, 2014 and have not demonstrated an economic or social need to live in a rural area as prescribed by national policy or the Guidelines. The proposed development would, therefore, contravene materially development plan objective RCI 4-3 and would be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Senior Planning Inspector

July, 2021