



An
Bord
Pleanála

Inspector's Report ABP-310092-21.

Development	Dwellinghouse and ancillary site works.
Location	Curraghconway, Lehenagh, Cork.
Planning Authority	Cork City Council .
Planning Authority Reg. Ref.	2139905.
Applicant	Declan O'Dwyer.
Type of Application	Permission
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant	Declan O'Dwyer.
Observer(s)	None.
Date of Site Inspection	12 June 2021.
Inspector	Mairead Kenny.

1.0 Overview

- 1.1. There are two concurrent appeals at adjacent sites. In both cases the applicants are brothers who are seeking to build residential dwellings.

2.0 Site Location and Description

- 2.1. The site is located in a rural area close to Cork city and to the airport. This area was previously within the administrative jurisdiction of Cork County and fell within the city boundary following an extension of that area.
- 2.2. The site is accessed easily from the N27 / airport roundabout, which is approximately 1 km to the west. At the time of the inspection I formed the view that this narrow country road accommodates a relatively high level of traffic. The site entrance is within the 50 kph speed restriction zone, which is signposted to the east.
- 2.3. The subject site is accessed by way of a narrow laneway. It is positioned to the rear of a cluster of ESB and telecommunications compounds. The site and the site of the concurrent appeal are taken from a large field which slopes noticeably from south to north. The midpoint of the subject sites is at an elevation of 170 m OD with the highest point of the overall hill being 174 m.
- 2.4. The stated site area is 0.22 ha. The site subject of this appeal is located directly behind the ESB compound and is to the west of the other appeal site. The defined site does not incorporate the laneway from which access would be taken.

3.0 Proposed Development

- 3.1. Permission is sought to construct a new dwellinghouse and all associated site works for use by the applicant as place of residence. The site is being purchased by the applicant and the owner has given consent to the making of the application and to carry out required works on the roadside boundaries.
- 3.2. The proposed house is a two-storey house of overall floor area of 225 m². The finished floor level of the proposed house is given at 169.5 and of the ridge at 177.2 m OD. The house is of contemporary design idiom with simple external treatments and finishes.

- 3.3. At the junction of the laneway and the public road it is proposed to provide 90 m sight distance from the existing entrance as measured 2.4 m from the edge of the public carriageway. This will require some modification to the roadside boundary to the west of the laneway.
- 3.4. The landscaping plan enclosed shows that the site would be planted with clusters of trees as well as an extensive hedgerow and tree planting scheme at the boundaries.
- 3.5. The southern end of the site would be reserved for the provision of access to the concurrent appeal site (the proposed place of residence of Robert O'Dwyer).
- 3.6. The proposed water supply to serve the development would be a new connection to the public mains. A packaged wastewater treatment system and polishing filter will serve to provide wastewater management and treatment.
- 3.7. The application submissions include a site characterisation report dated 5 March 2018.

4.0 **Planning Authority Decision**

4.1. **Decision**

The planning authority decided to refuse permission for the reasons summarised below:

- Having regard to the location of the site within the Cork Metropolitan Greenbelt and to NPO 19 which seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area, the applicant has not demonstrated an economic or social need to live in a rural area and has not provided sufficient information to demonstrate an exceptional rural generated housing need in accordance with Objective RCI 4-1 of the development plan.
- Having regard to the location of the site to the rear of an existing utilities compound and site of telecommunications infrastructure, would constitute a haphazard and disorderly form of backland development which would seriously injure the amenities of the area and be contrary to objectives RCI 6-1 and GI 6-1 of the development plan.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The main points of the planner's report include

- Applicants are required to demonstrate an 'exceptional rural generated housing need'. It is recognised that the applicant grew up in the area and has connection to the area. The applicant has provided insufficient evidence of demonstratable economic or social need to live in this rural area.
- Given the siting, road layout, the location of the site and that the field extends to the east the planning authority is concerned with the precedent which a grant of permission would create.
- The area has witnessed considerable development pressure. The precedent cases referenced in the application do not appear to be recent and the current application should be determined on its own merits.
- The proposed development would lead to erosion of the green belt and further suburbanisation of the rural area.
- In the previous applications concerns were expressed about the house design and visual impact on this elevated and exposed site in an area of high value landscape. The proposed development would be unduly prominent, have a poor relationship with the landscape and appear haphazard and detract from the amenities of the area.
- The existing laneway (right of way) which would serve two dwellings would not have room for two cars to pass. The application site does not include the existing laneway and works to the roadside boundary and a right of way has not been shown on the existing laneway.

4.2.2. Other Technical Reports

Area Engineer - the sight line upgrades indicated are excessive for a 50kph speed limit. It is recommended that the entrance design be altered so as to provide sight distances of 45 m. The proposed road widening is not the ideal solution. Slight road widening may be beneficial but not for the full extent of the works.

Environment - no objection subject to conditions. The conditions relate to waste, construction noise and hours of working, orderly construction, tree felling and clearing of vegetation to take place outside of the bird nesting season and protection of water courses during construction.

Contributions Report – this sets out a requirement for payment in the amount of €5,988.19.

Rural Water - recommends further information. The site characterisation report from 2018 submitted refers to a site assessment carried out for a nearby site as part of a previous application 18/4577. A site suitability assessment must be site specific. A new assessment is required with the test holes made close to but not within the proposed percolation area.

4.3. Prescribed Bodies

Irish Water - no objections.

4.4. Third Party Observations

None.

5.0 Planning History

Reg ref 184578 – permission refused for a dwelling house for applicant on site adjacent the subject site – May 2018. The reasons for refusal related to back land development in the green belt, undesirable precedent and unsafe site access.

A subsequent application under Reg ref 194578 was withdrawn.

Reg ref 203 9511 was an application by Declan and Robert O'Dwyer and was refused permission in October 2020.

ABP – 308675 – 20 relates to an invalid appeal against the decision of the planning authority to refuse permission for dwellinghouses for Declan and Robert O'Brien.

6.0 Policy Context

6.1. National Planning Framework, 2018

- 6.1.1. Under National Policy Objective 19 it is policy 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.

6.2. Sustainable Rural Housing Guidelines for Planning Authorities, 2005

- 6.2.1. Under the indicative map which is part of this document the site would be as being in an Area Under Strong Urban Influence.
- 6.2.2. The document sets limits for urban generated housing in particular locations. It sets out guidance to ensure that where rural housing is permitted there will be minimum impacts on the environment.
- 6.2.3. The document aims to ensure that planning authorities will provide information and assistance to applicants in identifying suitable sites where they will be able to obtain planning permission.

6.3. Development Plan

- 6.4. The Cork County Development Plan 2014 – 2020 (CDP) applies.
- 6.5. The site is within the Metropolitan Cork Green Belt.
- 6.6. Objective RCI 4-1 addresses the categories of housing need that are applicable to applicants for dwelling houses within the Green Belt.
- 6.7. RCI 5-2 describes the purpose of the Greenbelt, which is to retain the open and rural character of the lands between and adjacent to urban areas and maintaining the clear distinction between urban areas and the countryside, to prevent urban sprawl and coalescence of built-up areas. It is recognised that in order to strengthen existing rural communities provision can be made to meet exceptional individual housing needs.
- 6.8. RCI 6-1 refers to the design and landscaping of new houses in rural areas.

6.9. Natural Heritage

6.10. The nearby European sites are Great Island Channel SAC (site code 001058) Cork Harbour SPA (site code 004030).

7.0 The Appeal

7.1. Grounds of Appeal

The main points of the first party appeal include:

- The applicant along with his brother are from a third generation family within a very short distance of the proposed sites and wish to continue living in the locality where they have lived all of their lives. They have made several attempts to secure planning permission. The lands in question were previously in Cork County. The family home is less than 100 m from the subject site and their parents are elderly and the brothers anxious to be able to look after them.
- The planning history as outlined in detail including in relation to actions undertaken subsequent to refusals and the discussion which took place. The brothers were advised that once certain issues were addressed, they would be able to submit their planning applications.
- Regarding the question of backland development this became an issue when there was a change in the planner and the approach of the planning authority was inconsistent.
- There is no clear definition of what constitutes backland development. It tends to be discouraged by some planning authorities due to impacts on residential development when building behind an established residential building line.
- There is no policy in relation to backland development in the development plan. At this site there can be no issues relating to residential amenity.
- There is clearly adequate vehicular access. The sight line specified meet all appropriate safety requirements. The landowner is agreeable to any required widening.

- The landowner has agreed to a sterilisation condition being imposed.
- The unique social and economic needs are lifelong residents in the area and proximity to workplace permitting sustainable transport, proximity to ageing parents and affordability of the site due to the relationship with the landowner.
- There is no likelihood of precedent.
- In the current case it is stated that the applicant does not comply with the qualifying criteria set down in RCI 4-1. This is at odds with the reason for refusal of 21/39904 and both Cork County and Cork City Councils have previously accepted that the brothers complied with the qualifying categories of housing needs. It is difficult to imagine that the purpose of the NPF was intended to prevent people being allowed build in their own community.
- Declan is a firefighter and is required by the terms of his employment to live within 10 miles of the fire station. The fire station is 15 minute cycle.
- Both Declan and Robert reside with their partners in the family home.
- There is a high level of development in the general area and this part of Cork will be subject of considerable future growth.
- Regarding the house design it should be noted that the site does not overlook the city and that the surrounding area is peppered with multiple examples of modern architecturally designed, large two-storey houses many of them recently constructed. The landscape value has to be considered in the context of the adjacent utilities. Landscape planting is proposed.
- Reference is made to other houses in the area of similar design and scale and to other examples of back land development.
- The Board is requested to grant permission.

7.2. Planning Authority Response

None.

7.3. Observations

None.

7.4. Further Responses

None.

7.5. EIA Screening

- 7.5.1. Having regard to the nature and scale of the development proposed, the location of the site outside of any protected site and the nature of the receiving environment, the habitat and low level ecological value of the lands and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Assessment

- 8.1. I consider that the main issue in this appeal concerns the applicant's economic and social need to reside in this area which is under development pressure and is within the Metropolitan Greenbelt.

- 8.2. Other substantive issues also arise. In this respect I would note the following:

- the issue of backland development and Reason 2 of the decision of the planning authority
- the visual impact of the proposed dwelling house
- the suitability of the site access
- the information provided with respect to the suitability of the site for wastewater treatment.

8.3. Policy

- 8.3.1. I consider that the primary issue in this case relates to the character of the area in terms of settlement policy and in particular to the core consideration of whether or not there is a demonstratable economic or social need to live in this rural area.
- 8.3.2. At a national level National Policy Objective 19 of the NPF sets the overarching requirement to facilitate the provision of single housing in the countryside based on

the core consideration of demonstrable economic or social need to live in areas which would be considered to be under urban influence. I note the proximity of the site to the N27 which provides easy access to the city environs and I refer the Board to the submissions made in the application which clearly demonstrate that within the general environs of the site there is evidence of pressure for development. The designation of the site as being within the Metropolitan Greenbelt supports the conclusion that the area is under influence for urban generated housing and the adopted development plan policy is to resist that pressure except in exceptional circumstances.

- 8.3.3. In terms of the case made by the applicant in support of the proposed development I consider that there is little evidence of any actual need to live at this specific location. The applicant has referenced that he is from a family which has resided at this location for three generations and the site is within very close distance of the family home, which is a few minutes' walk to the west. The applicant has referred to a desire to reside near his elderly parents, to the existing housing need which he and his brother have as a result of living in the family home at present and to the economic aspects of this site as a solution to his housing needs. The applicant has also referenced the fact that as a fireman and he is obliged to live within a certain distance from his place of employment and that the site would meet this criteria.
- 8.3.4. I accept the points made in the submission. Nevertheless, in my opinion none of the above actually sets out a requirement to reside at this specific location. I consider that none of the statements made would clearly support the conclusion that the applicant actually needs to reside at this location. I consider that neither economic or social need has been demonstrated.
- 8.3.5. As such, the only conclusion which can reasonably be drawn in my opinion is that this proposal contravenes NPO 19 and RCI 5-4. I consider that the decision of the planning authority as expressed in Reason 1 should be upheld.

8.4. Backland development

- 8.4.1. I share some of the views expressed by both parties in relation to this issue. In terms of the appellant's comments, I would agree that in general concerns relating to back land development frequently arise in association with concerns about residential

amenity. I consider however that such circumstances often constitute significant planning considerations because backland development is often proposed to the rear of existing development. In this case I agree as the appellant has pointed out that there can be no concerns relating to residential or other amenity issues.

8.4.2. On the other hand, I would share the view of the planning authority that the proposed layout and the site selected may be described as a haphazard and disorderly form of development. I do not consider that it is desirable that residential development be permitted at a location immediately adjacent an important cluster of electricity and telecommunications utilities.

8.4.3. On balance, all other things being equal I am not convinced that a refusal of permission for reason of backland development should be sustained. However, I do consider that the haphazard and disorderly pattern of development is a material consideration, is inappropriate and warrants a refusal of permission.

8.5. **Visual Impact**

8.5.1. By reason of the siting of the development at a highly exposed and elevated site and having regard to the two-storey nature of the proposed house and its scale relative to the 0.22 ha site, I consider that the proposed development would have significant and adverse short-term impacts on the amenities of the area. However, the application sets out a very detailed and comprehensive landscaping scheme and I am satisfied that in time this would assist in assimilating the proposed development within the site and within the landscape. It is also reasonable to note that the proposed development would be seen in the context of the cluster of utilities. For these reasons I consider that it may be concluded that the development is not highly acceptable in terms of its visual impact and would not warrant a refusal of permission on this basis.

8.6. **Site access**

8.6.1. I am satisfied that the applicant has sufficient legal consent to undertake the necessary amendments to the boundary to provide for suitable sightlines at the junction of the private laneway and public road.

- 8.6.2. I note the planning authority technical reports which recommend that the proposed 90 m sight line be reduced. On inspection of the site I formed the opinion that this narrow minor road is relatively heavily trafficked, and I also considered that cars appeared to be travelling at relatively high speeds. I consider it unfortunate that there is not available more information to support the applicant's proposal to provide 90 m sightlines, including some information on traffic levels and speeds. A road safety audit might have been undertaken.
- 8.6.3. In the event that permission is to be granted I would recommend that the 90m sightline be adopted.

8.7. Site Suitability

- 8.7.1. In terms of the site suitability for treatment and disposal of wastewater, I note the comments in the technical reports of the planning authority to the effect that the submitted site characterisation form is from another application. I support the suggestion therein that a site-specific site characterisation is required, including for reason that there is variation across most sites and such variation is demonstrated even in the information provided.
- 8.7.2. While the submitted report dates to 2018, I was unable to locate any map within this report or within other documentation which indicated the location of the testing undertaken. As such I consider it necessary to conclude that there is not sufficient information for the Board on which to draw conclusions relating to the suitability of the site for wastewater treatment and disposal.
- 8.7.3. If the Board was satisfied with all other issues, this matter could be addressed by way of a request for further information.

9.0 Appropriate Assessment:

- 9.1.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, I am satisfied that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

10.0 Recommendation

10.1. I recommend that permission be refused for the reasons and considerations below.

11.0 Reasons and Considerations

1. The Board considered 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, which seek to distinguish between urban generated housing and rural generated housing need and the need for identification of suitable sites and noted national policy as set out in National Policy Objective 19 of the National Planning Framework, 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.

Noting the location of the site within the Metropolitan Greenbelt and the proximity of the site to existing settlements and having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has established a demonstrable economic or social need to live at this specific site in this rural area.

The proposed development 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 and would be contrary to the Ministerial Guidelines and to the overarching provisions of the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the site to the rear of a complex of electricity - related and telecommunications infrastructure, it is considered that the proposed development constitutes a haphazard and disorderly form of development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Mairead Kenny

Senior Planning Inspector

14 June 2021