



An
Bord
Pleanála

Inspector's Report ABP 310434-21

Development	Dwelling, wastewater treatment plant and ancillary works.
Location	Dartry Cottage, Faggott Hill, Clogheen, Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	21/39997
Applicant	Vivienne Galvin
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. refusal
Appellant	Vivienne Galvin
Observer(s)	None
Date of Site Inspection	08/07/21
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.41 hectares is to the north-west of Cork City at Faggot Hill in the townland of Clogheen. The local road L2796 from which the site is accessed connects the city to Blarney, is narrow without the benefit of hard shoulders, and is well trafficked. The 60kph speed limit applies. The area is largely agricultural in character with one off housing ribboning along the road.

The site is to the rear and downslope of an existing single storey dwelling which fronts onto the road. The said dwelling is within a cluster of houses, some of which are setback from the road.

The site is served by a vehicular access located to the south of the existing dwelling. It slopes down from west to east with the boundaries delineated by hedgerows.

2.0 Proposed Development

Permission is sought to construct a single storey, 4 no. bedroom dwelling (stated floor area of 186 sq.m) to the rear of the existing dwelling ('Dartry Cottage'). Effluent disposal is to be by way of a wastewater treatment system.

A Site Suitability Assessment Report accompanies the application. No water was recorded in the trial hole. T and P values of 16.11 and 14.81 were calculated respectively.

The application is accompanied by a Planning Submission Report.

- The applicant purchased the site in 2016 and lives in the existing dwelling which is too small to meet her family's needs (stated floor area 86 sq.m.).
- The applicant is from the area having grown up in Killard c.1.8km from the site.
- The applicant does not intend to subdivide the site. The existing dwelling would be made available and adapted to meet the medical needs of the applicant's mother.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the above described development for two reasons which can be summarised as follows:

1. The applicant has not demonstrated compliance with objectives RCI 4-1 or RCI 4-8 of the County Development Plan or Objective 19 of the NPF. The proposal does not come within the scope of exceptional housing need.
2. Having regard to the backland nature of the site and the extent of one off housing the proposal is haphazard in nature, would contribute to an excessive density of development which militates against the amenities of residents, and would give rise to an over concentration of residential development in a green belt rural area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planner's report notes:

- The site is within the Metropolitan Cork Greenbelt and an area of High Landscape Value.
- As the existing dwelling is in the applicant's ownership the proposal does not comply with development plan objective RCI 4-1.
- It is accepted that the applicant's mother has exceptional health circumstances. The dwelling proposed is not for the applicant's mother. The proposal does not comply with development plan objective RCI 4-8.
- The proposal does not comply with NPF objective 19.
- The dwelling in a backland location in an area of ribbon development constitutes haphazard development at a density that does not accord with a rural setting.
- The site is relatively exposed and elevated in nature. Inadequate consideration has been given to the visual impact of the proposal.

- The new dwelling would be approx. 17 metres from the existing dwelling. This is considered too close.

A refusal of permission for two reasons recommended. The recommendation was endorsed by the Acting Senior Planner.

3.2.2. Other Technical Reports

Area Engineer recommends further information on surface water disposal.

Environment Section has no objection subject to conditions.

Rural Water report, no objection subject to conditions.

Contributions report has no objection.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. Third Party Observations

None

4.0 Planning History

17/5313 – permission granted for closure of existing site entrance, construction of new front boundary walls and retention and completion of new site entrance.

19/4987 – dwelling granted to rear of dwelling on adjoining site.

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. Cork County Development Plan, 2014

Note: whilst the site is now within the administrative area of Cork City Council the provisions of the current Cork County Development Plan continue to apply.

The site is within an area designated as the metropolitan greenbelt.

Objective RCI 4-1: Metropolitan Cork Greenbelt Objective RCI 41 should be read in conjunction with Chapter 13, Section 13.8 relating to 'Prominent and Strategic Metropolitan Cork Greenbelt Areas' including Objective GI 81 and Figure 13.3.

The Metropolitan Cork Greenbelt is the area under strongest urban pressure for rural housing. Therefore, applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional 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, including 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. Landowners including their sons and daughters who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence for a minimum of seven years prior to the date of the planning application.

In circumstances, where a family land holding is unsuitable for the construction of a house, consideration may be given to a nearby landholding where this would not conflict with Objective GI 81 and other policies and objectives in the plan. The total number of houses within the Metropolitan Greenbelt, for which planning permission has been granted since this plan came into operation on a family farm or any single landholding within the rural area, will not normally exceed two.

Objective RCI 5-1: Metropolitan Cork Greenbelt

Maintain the Metropolitan Cork Greenbelt (as shown on Figure 4.1 in this Plan) which encompasses the City and its suburbs together with the satellite towns, villages and countryside of Metropolitan Cork.

Objective RCI 5-2: Purpose of Greenbelt

- a) Maintain a Green Belt for Metropolitan Cork with the purposes of retaining the open and rural character of lands between and adjacent to urban areas, maintaining the clear distinction between urban areas and the countryside, to prevent urban sprawl and the coalescence of built up areas, to focus attention on lands within settlements which are zoned for development and provide for appropriate land uses that protect the physical and visual amenity of the area.
- b) Recognise that in order to strengthen existing rural communities, provision can be made within the objectives of this plan to meet exceptional individual housing needs within areas where controls on rural housing apply.

Objective RCI 4 - 8 Exceptional Health Circumstances

Facilitate the housing needs of persons who are considered to have exceptional health circumstances that require them to live in a particular environment or close to family support in the rural area. The application for a rural dwelling must be supported by relevant documentation from a registered medical practitioner and a qualified representative of an organisation which represents or supports persons with a medical condition or a disability.

This objective applies to all rural housing policy area types.

Objective RCI 5-4: Sustainability of Exceptions to Greenbelt Policies

Recognise that by reason of the number of people currently living within Greenbelt areas, the granting of regular exceptions to overall policy is likely to give rise over the years to incremental erosion of much of the Greenbelt.

Provision of Ancillary Family Accommodation in Granny Flats

5.7.12 Consideration can be given to building ancillary accommodation either as an extension to an existing house or as a separate dwelling unit in cases where it can be shown that such is required for a family member. This would include circumstances where a member of the family requires separate living space which is on the same property as the main dwelling. Such units can be established in conjunction with a dwelling house, either within or attached to the house but within the bounds of that site.

5.7.13 This provision allows families to provide accommodation for older or disabled relatives/persons. These units should be permitted where the following criteria can be met:

- There is only one dwelling and one ancillary accommodation unit on the same site.
- The ancillary unit should not impact adversely on either the residential amenities of the existing property or the residential amenities of the area.
- The property and site should not be subdivided.
- The unit should be integrated visually with the existing dwelling.

- Additional parking, sewage treatment units or private amenity space is not required.
- The unit should not be sold off separately from the existing dwelling and a Section 47 agreement should be entered into by the property owner to ensure that any physically separate unit be retained as part of the existing property in perpetuity as a burden on the title.

5.3. Natural Heritage Designations

Cork Harbour SPA is c. 8 km to the south-east at its closest point.

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 submission by Byrne Planning Ltd. on behalf of the 1st Party against the planning authority's notification of decision to refuse permission can be summarised as follows:

6.1.1. Principle of Development

- The site is not within a landscape designated as being of high value and is not located within the 'Prominent and Strategic Metropolitan Green Belt' zoning.
- The applicant meets the settlement location criteria for the metropolitan green belt. She is from the area with strong family and social connections. The applicant's family have lived in the locality for a period exceeding 7 years.
- The applicant has a need to expand the living arrangements based on the growing needs of her family and the detailed medical needs of her mother.

- There is an economic case. There is severe housing shortage and the applicant's mother is renting a property at an unsustainable rate when a suitable dwelling can be supplied by the applicant.
- The applicant's mother is not in a position to purchase a new dwelling and would require the financial support of her family in having a suitable site available where her family can act as carers. The planning authority accepted the applicant's mother's exceptional health circumstances.
- The issue of the existing dwelling becoming ancillary to the proposed house could have been addressed by way of further information. An application for the extension of the cottage would follow a grant of permission.
- The applicants on the adjoining site were not refused permission on the basis that they had a home (file ref. 09/4569). It is contended that the first home does not impact on the need for a new property to be developed at this location.
- Precedent set for permissions for dwellings in the MGB zoning.
- In terms of scenic route 36, its designation does not necessarily preclude development.

6.1.2. Layout and Density

- The dwelling has been designed to meet the criteria of the County Development Plan and will be screened from view. It will not be readily visible from vantage points. It is at a lower level to the rear of the site. The site can be landscaped.
- The overall site can accommodate 2 no. dwellings and effluent treatment systems. The site at c.2000m² accords with what is generally required for a dwelling in a rural area.
- The issue of density is misplaced.
- The proposal will not contribute to sprawl or ribbon development. The site has been in residential use since 1928.

- A distance of 25 metres is to be maintained between the main part of Dartry cottage and the proposed dwelling with 17 metres to be maintained from the bedroom at the rear of the cottage.
- An increase in separation distance would put the property behind the established building line of the 'backland' dwelling on the adjoining site.
- A large extension to Dartry Cottage as preferred by the local authority would have a greater, negative visual impact.
- The septic tank serving the existing dwelling will be brought up to appropriate standards when an application seeking its extension is lodged.
- The site will not be subdivided.
- The site has adequate sightlines in either direction. One access, only, will serve the site.

6.2. **Planning Authority Response**

None

6.3. **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
- Layout and Design
- Appropriate Assessment - Screening

7.1. **Compliance with Settlement Location Policy**

The site is within a rural area identified as being within the greenbelt of metropolitan Cork in the current County Development Plan and is noted as being the area under strongest urban pressure for rural housing in the County. In view of the site's close

proximity to Cork city and its obvious attractiveness for urban generated housing demand this designation is considered to be entirely reasonable. I note that the said development plan postdates the Rural Housing Guidelines and the policies and objectives therein would have been informed by same.

In the interests of clarity the applicant is correct in stating that the site is outside the boundary of the Prominent Strategic Metropolitan Greenbelt Area (albeit surrounded by same) and is outside the High Value Landscape which is c. 400 metres to the south-east. I also note that the local road from which the site is accessed (L2796) is not a designated scenic route. The nearest scenic route is along local road L2779 which is to the south and from which the site is not visible.

The National Planning Framework postdates the county 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.

On the basis of the above national and local 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.

The current development plan allows for a presumption in favour of applicants that have an exceptional rural generated housing need based on their social and/or economic links to the rural area and in this regard, must demonstrate that they comply with one of the stipulated categories of housing need.

Details are given as to the applicant's connections to the area. She grew up in Killard which is c. 1.5 km to the north. She resides in the dwelling on the site which, she states, she purchased in 2016. As noted by the Area Planner in her report on file the site appears to have been in different ownership when permission was

sought to alter the vehicular access arrangements under planning reference 17/04342 lodged with the planning authority on 30/05/17.

The existing dwelling at 87 sq.m. cannot now meet the living requirements of the applicant's family. The proposal is for a new dwelling to the rear of the site with the applicant's mother to reside in the existing dwelling which will be modified to meet the constraints imposed by her medical condition.

I submit that the applicant does not meet any of the settlement location policy criteria that pertain to the Metropolitan Green Belt Zone. As she owns the dwelling on the site the proposal cannot be seen to be her 1st home on a landholding which is 0.41 hectares in area. Whilst the applicant's mother's health is cited as a mitigating consideration in the assessment of the case the fact remains that the proposed development is not for her and, as such, the proposal does not comply with development plan objective RCI 4-8.

In view of the evident sensitivities of the area to the pressure from urban generated houses and the pattern of development in the area I submit that a strict application of the development plan requirements in terms of demonstrating an applicant's need to have a house at this location is appropriate. As per objective RCI 5-4 of the plan the granting of regular exceptions to overall policy would give rise to incremental erosion of much of the greenbelt. Thus, 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 based on exceptional economic or social need. I therefore recommend a refusal of permission on this basis.

Reference is made to precedent set at other locations in the green belt with permission granted for a dwelling to the rear of the dwelling on the adjoining site to the south under ref. 19/4987 cited. In terms of compliance with the relevant settlement location policy each case would be assessed on its merits.

Whilst it is contended that the existing dwelling could not be extended appropriately to meet the applicant's needs without having undue visual impact, I note that the constraints that apply to an area of high landscape value are not applicable in this instance. It is not unreasonable to conclude that a design solution allowing for the suitable remodelling and extension would be possible whilst avoiding undue impact on the visual amenities of the area.

7.2. Layout and Design

The proposed single storey dwelling is to be located to the rear and downslope of the existing dwelling and is to maintain a building line established by 4 no. existing and permitted dwellings to the south as delineated on the site layout plan accompanying the application. The dwelling would constitute the 10th dwelling on this side of the local road (8 existing and 1 permitted). I consider that the proposed development would exacerbate this pattern of backland development and concentration of one off housing which would be contrary to the purpose of the greenbelt as set out in objective RCI 5-2 of the County Development Plan, namely the retention of the open and rural character of lands between and adjacent to urban areas, to prevent urban sprawl and the coalescence of built up areas, to focus attention on lands within settlements which are zoned for development and provide for appropriate land uses that protect the physical and visual amenity of the area.

The dwelling is to be served by an effluent treatment system to be located downslope of the dwelling. The septic tank serving the existing cottage is along the southern site boundary. There is no indication given that it is served by a percolation area. The number of existing and permitted dwellings served by individual treatment systems on the sites to the north and south as delineated on the site layout plan are noted. Whilst I note the results of the site suitability assessment report I would express concern as to the concentration and potential for adverse impact on public health.

The vehicular access serving the overall site is to be used with adequate sight lines onto the local road in both directions. The local road was noted to be well trafficked on day of inspection along which the 60kph speed limit applies.

7.3. Appropriate Assessment – Screening

The site is c. 8km to the north-east of Cork Harbour SPA.

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

1. Having regard to the location of the site within the Metropolitan Cork Green Belt as designated in the current Cork County Development Plan 2014 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, it is considered that the applicant does not come within the scope of the exceptional housing need criteria for a house at this location as set out in development plan objective RCI 4-1. The proposed development would, therefore, be contrary to the Cork County Development Plan 2014, to the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities, the rural policy provisions of the National Planning Framework and to the proper planning and sustainable development of the area.
2. Having regard to the extent of one off housing existing and permitted in the immediate vicinity in a rural area which is within the green belt of metropolitan Cork it is considered that the proposed development would constitute and exacerbate the pattern of haphazard backland development that would militate against the amenities of the area and give rise to an over concentration of residential development in this green belt area. The proposed development would contravene the development plan objectives for the green belt area as set out in current County Development Plan and would

therefore be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Senior Planning Inspector

August, 2021