



An
Bord
Pleanála

Inspector's Report ABP-310519-21

Development	To construct a dormer style dwelling with septic tank.
Location	Tullorum, Killarney, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	21/294
Applicant(s)	Kate Spillane
Type of Application	Outline permission
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Decision
Appellant(s)	Kate Spillane
Observer(s)	None
Date of Site Inspection	12 th August 2021
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located 4.7km to the north-east of Killarney town centre in an area of elevated open countryside, which is punctuated by one-off dwelling houses. This site lies on the eastern side of the local road from Killarney, which serves the townland of Tullorum. It is accessed at present from this road via an agricultural gate in its south-western corner. As it passes the site, the local road is of straight alignment, and it is subject to an 80 kmph speed limit.
- 1.2. The site itself is regular in shape and it extends over an area of 1.18 hectares. This site is relatively level and it is presently in agricultural use. A row of five one-off dwelling houses lie to the south of the site and two to the north. Two other one-off dwelling houses lie on the opposite side of the local road from the north-western corner of the site, as does the entrance to the local GAA grounds. The site is bound predominantly by hedgerows, which are supplemented in places by timber post and rail fencing and a wall.

2.0 Proposed Development

- 2.1. The applicant seeks outline planning permission for a dormer style dwelling house with a floorspace of c. 220 sqm. This dwelling house would be sited towards the centre of the site. It would be served by a new vehicular access from the local road, which would be sited two-thirds of the way along the site frontage from its south-western corner. This access would comprise a recessed gateway and accompanying piers. The dwelling house would also be served by a septic tank and percolation area, which would be sited towards the south-eastern corner of the site.

3.0 Planning Authority Decision

3.1. Decision

Outline permission was refused for the following reason:

The site is located within an area designated as an "Area under strong urban influence" in the Rural Settlement Policy as set out in Section 3.3 of the County Development Plan 2015 – 2021. The Planning Authority is not satisfied on the basis of the particulars

received with the application that the applicant complies with the requirements of the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government 2005 or with Objective RS7 of the County Development Plan 2015 – 2021.

It is considered therefore that the proposed development would be contrary to Objective RS7 of the County Development Plan 2015 – 2021 and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See decision.

3.2.2. Other Technical Reports

- Irish Water: No objection + Standard and site-specific observations.
- Kerry County Council:
 - Archaeology: Pre-development archaeological testing condition requested.
 - Site Assessment Unit: No objection, subject to conditions.

4.0 Planning History

- 08/968: Construct 3 dormer style dwelling houses, access road, and WWTP on each site: Withdrawn.
- 20/867: Construct a storey-and-a-half style dwelling house with septic tank: Refused for the same reason as the current application: This application was for the development of a smaller portion of the current application site.

5.0 Policy and Context

5.1. Development Plan

Under the Kerry County Development Plan 2015 – 2021 (CDP), the site is shown as lying within an “Area under strong urban influence”. Objective RS-7 is applicable:

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.

Under the CDP, the site is also shown as lying within the rural landscape type (a) rural general: “These areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character.”

5.2. National Policy

Sustainable Rural Housing Guidelines

5.3. Natural Heritage Designations

Killarney National Park, Macgillycuddy’s Reeks and Caragh River Catchment SAC (000365)

6.0 The Appeal

6.1. Grounds of Appeal

Background

- The applicant acquired the site from her parents.
- The site has an easterly aspect, and it extends over 1.18 hectares
- The site is composed of good, well-drained land, and it has a 120m road frontage.
- Services are available at the roadside, and an on-site septic tank and percolation area would be installed.

Response to reason for refusal

- Urban influence: The applicant acknowledges that the site is close to Killarney.

- Under the proposal, a site that could be developed for 5 – 6 dwellings would be developed for 1 dwelling, i.e. effectively sterilising it following the completion of this dwelling.
- The long road frontage would ensure that sightlines for drivers egressing the site would be good.
- In the light of the fourth bullet-point under the heading of “background”, the proposal would not put the area under urban pressure.

Family connections

- The applicant was born in Killarney, where she now works in the family travel business. She presently resides in Cleeny and she plans to marry and raise a family in the proposed dwelling house. The site in Tullorum is surrounded by the homes of members of her extended family, who go back generations in the area.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **Assessment**

- 7.1. I have reviewed the proposal in the light of the National Planning Framework (NPF), the Sustainable Rural Housing Guidelines, Kerry County Development Plan 2015 – 2021 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Rural housing need,
- (ii) Rural landscape and ribbon development,
- (iii) Access,
- (iv) Water, and
- (v) Appropriate Assessment.

(i) Rural housing need

7.2. Under Map 3.1 of the CDP, the site is shown as lying within “An area under strong urban influence” from Killarney. Objective RS-7 addresses the settlement objective that is applicable within this area:

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.

- 7.3. The applicant outlines how she owns the site, which was previously in the ownership of her parents and their ancestors over two further generations. Within the vicinity of the site, several of the applicant’s relatives continue to reside, and so she has visited the locality often in her lifetime. The applicant, herself, was raised and presently resides in Cleeny, a northern suburb of Killarney, and she works in the family travel business in the town centre.
- 7.4. The Sustainable Rural Housing Guidelines distinguish between applicants who have urban and rural generated housing needs. The Planning Authority draws attention to the applicant’s place of residence, which is not within the locality of the site, and to her place of work. *Prima facie* she has an urban rather than a rural generated housing need. Accordingly, it concluded that the applicant’s circumstances did not comply with either these Guidelines or Objective RS-7 of the CDP.
- 7.5. The applicant has appealed the refusal of her application because she considers that the Planning Authority did not give sufficient weight to her family ties to the townland of Tullorum in which the site is located.
- 7.6. Under National Planning Objective 19 of the NPF, rural areas under urban influence are distinguished from those that are not. Within these areas, the core consideration

is whether applicants have a demonstrable social or economic need to reside therein, having regard to the viability of smaller towns and rural settlements.

- 7.7. The applicant works in Killarney town centre and so she does not have an economic need to reside on the application site. Instead, she wants to do so because of her many family links to the site's townland. However, these links fall short of a recognisable social need, and they do not correspond with the circumstances outlined in Objective RS-7, e.g. the provision of a new dwelling house on her parents' farm or landholding.
- 7.8. I conclude that the applicant's circumstances are such that she does not have a rural generated housing need to reside on the application site.

(ii) Rural landscape and ribbon development

- 7.9. Under the CDP, the site is also shown as lying within the rural landscape type (a) rural general: "These areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character."
- 7.10. The current application seeks outline permission for a dormer style dwelling house, which would be sited centrally on the site. Further details are not available at this stage and so any assessment of the landscape and visual aspects of the proposal would arise under a subsequent application that could be anticipated on foot of the current one, were it to be permitted.
- 7.11. Under Appendix 4 of the Sustainable Rural Housing Guidelines, ribbon development is discussed. Such development "will exhibit characteristics such as high density of almost continuous road frontage type development, e.g. where 5 or more houses exist on any one side of a given 250m of road frontage.
- 7.12. During my site visit, I observed that a row of 5 dwelling houses exists to the south of the site and that they have a combined roadside frontage of 175m. Under the above cited Appendix 4, ribbon development has already occurred.
- 7.13. The applicant previously applied for a dwelling house over the southern portion of the site only (20/867). She now seeks permission for a dwelling house on the entire site, which would thereby sterilise its potential to be developed for further dwelling houses. However, even under the current proposal, existing ribbon development

would be exacerbated, i.e. the siting of the proposed access point and dwelling house would come within 75m of the existing ribbon development to the south and so the expanded combined frontage of 250m would accompany 6 dwelling houses. In these circumstances, while the proposal would potentially avert greater ribbon development again, it would still add to existing ribbon development.

7.14. I conclude that, while a visual and landscape assessment of the proposal would be for any subsequent application, the submitted application indicates that the proposed dwelling house would add to existing ribbon development to the south of the site.

(iii) Access

7.15. Under the proposal, a new vehicular access to the site would be formed at a point roughly two-thirds of the way along the site's roadside frontage from its south-western corner. This access would entail the formation of a vehicle refuge forward of a recessed gateway, which would be accompanied by stone clad piers.

7.16. The local road is of straight alignment as it passes the site, although to the north it passes through a pronounced bend and to the south it passes through a gentle bend. This road is the subject of an 80 kmph speed limit. The submitted site layout plan indicates that sightlines would be available to egressing drivers with y distances of 80m to the north and to the south.

7.17. During my site visit, I observed that the local road is slightly elevated in relation to the site and that it is accompanied on the nearside by a grass verge that has a raised mound along it. Scope exists for the stated sightlines to be provided. Under any subsequent application, details of how the difference in levels between the local road and the site access would need to be provided.

7.18. I note that the applicant has selected the optimum point on the site's frontage for the proposed new vehicular access. I note, too, that a y distance of 90m may be available to the north and to the south. Given the alignment of the local road to the north and south of the site, its design speed may be considered to be relatively low and so, in these circumstances, the envisaged sightlines maybe adequate.

7.19. I conclude that, in principle, the proposed access to the site would be satisfactory.

(iv) Water

- 7.20. The applicant intends to connect the proposed dwelling house to the existing public water main under the local road, which passes the site. While Irish Water has raised no objection in this respect, it advises that permission would be needed from the trustees of the relevant group water scheme.
- 7.21. Under the OPW's flood maps, the site is not the subject of any identified flood risk.
- 7.22. The applicant proposes that surface water from hard surfaces would discharge to a soakaway.
- 7.23. The applicant proposes that foul water would be treated on-site by means of a septic tank and a percolation area, which would be sited towards the south-eastern corner of the site. To this end, she has completed a Site Characterisation Form (SCF), details of which are summarised below.
- The aquifer is locally improved and of low vulnerability. The response matrix is thus R1.
 - The direction of flow of ground water is estimated to be north eastwards.
 - The trial hole was dug to a depth of 3m: No groundwater was detected within this depth. The sub-soil was composed initially of sandy silt and, thereafter, of silty gravel with cobbles.
 - The T-test holes yielded an average result of 14.75 min per 25mm and so, under Table 6.3 of the EPA's relevant Code of Practice, the "site is suitable for the development of a septic tank system..."
- 7.24. I conclude that, under the proposal, no water issues would arise.

(v) Appropriate Assessment

- 7.25. The site lies 1.4km to the east of the nearest European site, i.e. the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365). I am not aware of any source/pathway/receptor routes between this site and this European site or any other European sites within the wider area and so its development to provide a dwelling house would not be likely to have any significant effect on the Conservation Objectives of this or any other European site.

7.26. Having regard to the nature, scale and location of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That permission be refused.

9.0 Reasons and Considerations

1. Having regard to:

- The location of the site within a rural area under the strong urban influence of Killarney,
- National Policy Objective 19 of the National Planning Framework, which requires that applicants for rural dwelling houses in rural areas under urban influence should have a demonstrable economic or social need and that this should be weighed having regard to the need to promote the viability of nearby settlements, and
- Objective RS-7 of the Kerry County Development Plan 2015 – 2021,

It is considered that the applicant has not demonstrated that she has an economic or social need that requires her to reside on the site and so to accede to the proposed dwelling house would contribute to the unnecessary expansion of development within a rural area, would militate against the preservation of the rural environment, and would contravene Objective 19 of the National Planning Framework. Likewise, the applicant would not comply with the provisions of Objective RS-7 of the County Development Plan. The proposal would, thus, be contrary to the proper planning and sustainable development of the area.

2. The proposed dwelling house would exacerbate undesirable ribbon development in a rural area outside lands zoned for residential development and would, therefore, be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

21st September 2021