



An
Bord
Pleanála

Inspector's Report ABP 311121-21

Development	Dwelling, septic tank and percolation area and associated works.
Location	Glenderry, Ballyheigue, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	21/578
Applicants	Jason & Fiona Casey
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. Refusal
Appellants	Jason & Fiona Casey
Observer(s)	None
Date of Site Inspection	20/10/21
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.498 hectares forms part of a larger field in the townland of Glenderry c. 4km to the north-west of Ballyheigue in North Kerry. The site is accessed from a track off a minor local road. The track is roughly surfaced and provides access to two dwellings, the northern most dwelling is dormer in design with the southernmost dwelling being single storey with accommodation at roof level. The site is located to the south of the said dwellings. The site is elevated, located on the south-eastern slope of Triskbeg Mountain and affords panoramic views southwards to the sea.

The area is characterised by extensive one off housing with ribbon development evident along the local road to the north.

2.0 Proposed Development

Permission is sought for a 225 sq.m. dwelling with attic accommodation to be served by a septic tank and percolation area, with water supply to be from a private well.

The application is accompanied by a letter of consent to use the access track. The surface of the track is proposed to be upgraded.

The applicants are the owners of the site. They are currently living with a parent. Mr. Casey is self employed as a building contractor and Ms. Casey is a nurse.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the above described development for 3 no. reasons which can be summarised as follows:

1. The proposal would interfere with the character of the landscape in an area zoned Rural Secondary Special Amenity which is it necessary to preserve in accordance with objective ZL-1 of the County Development Plan.
2. The proposal would interfere with protected views and prospects contrary to objective ZL-5 of the County Development Plan.

3. Having regard to the soil conditions and site gradient the planning authority is not satisfied that effluent could be adequately disposed of on site. The proposal would be prejudicial to public health.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report (countersigned) notes:

- Permission was refused for two sites north of the application site.
- The proposal would result in extending development into an open hillside area.
- The visual impact is rated as high and significant.
- It is considered that the proposal could not be integrated into the landscape at this location, would interfere with the protected views and prospects in the area and set an undesirable precedent for further one off houses in this sensitive hillside rural setting.
- The proposal as given in the public notices refers to surfacing the access road in tarmac, however the site boundaries do not include the said access road.
- The report from Site Assessment Unit noted. The gradient of the site is 1:6.5 and thus exceeds 1:8.
- The applicant would appear to satisfy the rural settlement policy for areas zoned secondary amenity.

A refusal of permission for 3 reasons recommended.

3.2.2. Other Technical Reports

County Archaeologist notes there are no recorded monuments in the vicinity. No mitigation required.

Site Assessment Unit, Environment Section recommends further information requesting clarification on conflicting information on the waste water treatment system design and slope of the site.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

None

4.0 **Planning History**

I am not aware of any previous planning applications on the site.

5.0 **Policy Context**

5.1. **National Planning Framework 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. **Kerry County Development Plan 2015**

The site is located in an area identified as Structurally Weaker Rural Area.

Objective RS-12 – accommodate demand for permanent residential development as it arises subject to good sustainable planning practice in matters such as design,

location, waste water treatment and the protection of important landscapes and environmentally sensitive areas.

The site is within an area designated as Secondary Special Amenity. These constitute sensitive landscapes which can accommodate a limited level of development.

The level of development will depend on the degree to which it can be integrated into the landscape. Residential development will be regulated in accordance with the provisions of Section 3.3.1 and Table 3.7.

The following provisions shall apply:-

- Individual residential home units shall be designed sympathetically to the landscape and existing structures and shall be sited so as not to have an adverse impact on the character of the landscape or natural environment.
- Any proposal must be designed and sited so as to ensure that it is not unduly obtrusive. The onus is therefore on the applicant to avoid obtrusive locations. Existing site features including trees and hedgerows should be retained to screen the development.
- Any proposal will be subject to the Development Management requirements set out in this Plan in relation to design, site size, drainage etc.

Table 3.7 - Amenity Zoning Settlement Policy

Secondary Special Amenity:-

Sons and Daughters of the traditional landowner, or a favoured niece or nephew, the land having been in the ownership of the family for in excess of 10 years while being the location of the principal family residence.

or

The applicant shall demonstrate a genuine rural employment need.

or

The applicants family shall have lived in the immediate locality prior to Jan 2003 with the applicant having been reared in the locality.

Map 12.1b - Views and prospects along the lower coastal road (Kerry Head Road) are delineated for protection in both directions (both seawards and landwards).

Objective ZL-1 - protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.

Objective ZL-5 – preserve the views and prospects as defined on Map Nos. 12.1, 12.1a-12.1u.

5.3. Natural Heritage Designations

The site is c. 1km to the north of Kerry Head SPA at the nearest 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 Paul Casey B.E. on behalf the appellants, which is accompanied by a submission by the applicant Mr. Jason Casey, can be summarised as follows:

6.2. Reason for Refusal No.1 – Landscape

- The site when viewed from the road that circles Kerry Head has houses in the background. The dwelling would integrate/blend with these houses. It would not change the character of the area. The reason for refusal would only be valid if there were no houses in the background.
- The proposed house would have less of a visual impact than existing houses due to the proposed finishes including stone and timber cladding. It will not break the brow of the hill when viewed from the south/south west/ south east.

- There is no evidence that the proposal will damage the economic asset of the area.
- The strong connections and need to live in the area have been demonstrated and which the planning authority has accepted. Mr. Casey has lived in the area all his life. The site is the last remaining piece of a family farm which was sold when their parents divorced. He complies with the settlement policy for areas designated at secondary special amenity. Ms. Casey is from Ballyheigue. They reside with Mr. Casey's father.
- They have a genuine need to live in the area. Mr. Casey is a self-employed builder with his work sourced locally. They need to live close to family for a support network.
- Mr. Casey is registered as a primary honey producer. He farms bees on the mountain with the potential to expand same into a business venture. Such bee farming is vital for high quality farming, sustainability and biodiversity.
- Sustainable development should mean keeping people in the rural area where they are from.

6.3. Reason for Refusal No.2 – Views and Prospects

- The house design and finishes are appropriate to the area with a more natural look with organic colours to make it less visible in the changing light.
- The house will overlay the dwelling immediately to the north.
- The applicants are willing to accept any house design that the planning authority deems appropriate.
- The area has a number of large farm sheds with a water tank on the top of the mountain. These have more impacts on views and prospects.

6.4. Reason for Refusal No. 3 – Waste Water Treatment

- The site is suitable for effluent disposal.
- The site layout clearly demonstrated that the percolation pipework runs parallel with the contours of the site and that the correct falls of 1:100 gradient will be achieved.

6.5. **Planning Authority Response**

The response can be summarised as follows:

- Preplanning took place at which time concerns relating to visual impact were highlighted.
- The proposal would result in an extension of development into an open and undeveloped landscape. There is presently a high level of ribbon development along the local road. Combined, this would have a significant negative impact on the visual amenities of the area.
- The Site Assessment Unit recommended further information. As a refusal of permission was being made, refusal on grounds of waste water treatment was given as a reason based on the information provided.
- Two recent applications by the Casey family for dwellings along the access track were refused permission mainly on grounds of visual impact.
- The proposal would have a significant negative impact on the rural character of the landscape and would set an undesirable precedent.

6.6. **Observations**

None

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings.

- Settlement Location Policy and Pattern of Development
- Visual Impact
- Site Servicing
- Appropriate Assessment

7.1. **Settlement Location Policy and Pattern of Development**

The site is within an area identified as a structurally weaker rural area in the current Kerry County Development Plan. Such a designation is attributed to areas which

exhibit persistent and significant population decline with low population density and few planning application numbers. The development plan states that the challenge is to stop sustained population and economic decline with a focus on both key villages and rural areas. As evidenced on day of inspection the immediate area is characterised by a notable level of one off housing along the local roads in the vicinity and notably that to the north, whilst the track serving the site provides access to 2 no. dwellings. In my opinion such a pattern of development somewhat belies the said development plan designation.

The area by virtue of its scenic qualities is designated as being of secondary special amenity. The current development plan considers that such areas are sensitive landscapes which can accommodate a limited level of development and, therefore, restrictions are in place in terms of settlement policy. Table 3.7 of the plan sets out the criteria which the applicant(s) are required to fulfil.

I note from the details accompanying the application that Mr. Casey is from the immediate area with family members owning the two houses immediately to the north. Ms. Casey is from Ballyheigue. They currently reside with his father. Mr. Casey is a self-employed contractor. Whilst he keeps bees in the vicinity, from the details provided in support of the appeal this does not constitute a commercial or economic enterprise. Ms. Casey is a nurse employed in the Regional Hospital in Tralee. Whilst the applicants may meet the settlement location policy of the current development plan they do not appear to need to reside at this location on the basis of an economic or social imperative.

Notwithstanding the provisions of objective RS-12 County Development Plan I submit that the proposed development, in the absence of any definable or demonstrable based need for a house in this rural area, would add to an already unacceptable density of development that would exacerbate and consolidate the pattern of haphazard rural housing which, in itself, would lead to an erosion of the rural and landscape character of this area. I would also submit that the preponderance of such development in such close proximity to Ballyheigue c. 4km to the south-east would exacerbate the challenges such small towns face in terms of consolidation, growth and enduring viability. This, in my opinion, would run counter to objective 19 of the National Planning Framework which specifically requires that due consideration is given to the viability of smaller towns and rural settlements in

facilitating the provision of single housing in the countryside outside areas under urban influence. I therefore recommend refusal in this regard.

7.2. Visual Impact

The site has an elevated position on the south-eastern slope of Triskbeg Mountain and is afforded panoramic views southwards to the sea. Views from the local road to the south of the site that runs close to the coast line around Kerry Head are protected in both directions, namely seawards and landwards, the latter consisting of views of Triskbeg Mountain. Views of the site are available when travelling in a westerly direction along the road. As noted previously by reason of the visual amenities of the area it is designated as being of Secondary Special Amenity

Whilst the protected landward views available from the said road are already impacted by the considerable sporadic development the proposal will extend development southwards into open hillside requiring site excavations to provide for a level bench. In my opinion this will exacerbate the negative impact on the said views. The fact that it will 'overlay' the dwelling immediately to the north in views does not, in my opinion, reduce this impact. I would also submit that changes to the house design would have minimal beneficial impact.

I, therefore, concur with the planning authority's reason for refusal in this regard.

7.3. Site Servicing

From the details provided in the Site Characterisation Form it is noted that there are approx. 7 dwellings within 250 metres of the appeal site with the underlying aquifer categorised as locally important with extreme vulnerability. The site slope is classified as steep (>1:5). No water was encountered in the trial hole. T and P values of 29.72 and 21.11 were recorded respectively.

The agent for the appellants in the appeal submission notes that the site layout clearly demonstrated the percolation pipework running parallel with the contours of the site and that the correct falls of 1:100 gradient will be achieved.

Whilst I would have reservations as to the density of development served by individual effluent treatment systems within a 250 radius of the site, the design solution would be in accordance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses.

7.4. Appropriate Assessment

The site is approx. 1km to the north of the nearest point of Kerry Head SPA.

Having regard to the nature and scale of the proposed development, the separation distance and existing development in the vicinity, 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 pattern and density of individual housing development in the vicinity of the site, the site location in proximity to the town of Ballyheigue and to National Policy Objective 19 of the National Planning Framework, adopted by the Government which states that regard to the viability of smaller towns and rural settlements will be had when facilitating the provision of single housing in the countryside in rural areas not under urban influence, the Board is not satisfied that the applicants' housing needs could not be satisfactorily met in an established smaller town or village/settlement centre. The proposed development would give rise to an excessive density of development, would contribute to the further 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 militate against the viability of smaller towns and rural settlements. The proposed development would, therefore, contravene the Ministerial Guidelines, and would be contrary to national policy and to the proper planning and sustainable development of the area.

2. The site is located in an elevated position in an area designated as Secondary Special Amenity in the current County Development Plan with views along the local road to the south (Kerry Head Road) listed for protection. It is considered that the proposed development on an elevated and exposed site would seriously injure the visual amenities of the area and would interfere with views of special amenity value which it is considered necessary to preserve. The proposed development would therefore be contrary to section 12.2.1 and objective ZI-5 of the current County Development Plan.

Pauline Fitzpatrick
Senior Planning Inspector

November, 2021