



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311894

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<b>Development</b>	Construction of house and wastewater treatment system.
<b>Location</b>	Ballinruddery, Listowel, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	21955
<b>Applicants</b>	Maria Keane and Denis Walsh.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Maria Keane and Denis Walsh.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	1 <sup>st</sup> April 2022.
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. This appeal relates to a site of .3 hectares located in a rural area south of Listowel town and just outside the town development boundary. It is on an elevated site to the south of the River Feale and has double frontage: onto the R555 to the north and onto a short cul-de-sac to the south along which there is a cluster of one-off houses. The town is accessed via the R555 which intersects with the N69 just before crossing a narrow bridge into the town . There are no footpaths between the site and the northern side of the N69 which extends along the bridge. There is also a footpath on the northern side of the R555 in the vicinity of the junction with the N69 and this stops about 100m south of the N69 junction.
- 1.2. The site is part of a field and the surrounding area is predominantly agricultural land with a significant amount of one-off housing.
- 1.3. The original hedgerow roadside boundary has been partly removed and a drainage channel is piped under a un-surfaced entrance located at the western end of the site frontage. An open drainage ditch also extends along the western boundary.

## 2.0 Proposed Development

- 2.1. The application involves permission for the construction of a 236 sq.m. dwelling house and wastewater treatment system with soil polishing filter incorporating a sandcell raised gravel bed and all other ancillary site works and services. Mains water connection is proposed. The proposed dwelling is dormer in style with stepped ridge heights of c. 5.3 m and 7.727m. It is to be set back at a distance of c.40m from the existing front roadside boundary along the cul-de-sac and a similar distance from the northern boundary to the rear along the R555.
- 2.2. The application is accompanied by a site characterisation form and in this the site is recorded as having a T test result of 66min/25mm and P Test result of 41min/25mm indicating that the site is suitable for on site wastewater treatment with discharge to ground. . and identified as not being suitable for a septic tank but suitable for a secondary treatment system.

### 3.0 Planning Authority Decision

Kerry county council by order dated 12<sup>th</sup> October 2021 decided to refuse permission for the following reason:

1. The planning authority is not satisfied on the basis of the submissions made in relation to the application, that a rural housing need has been demonstrated in accordance with Objective RS-7 Rural Settlement Strategy of the Kerry County Development Plan 2015-2021 having regard to the location of the site in an area designated a Rural Area under Strong Urban Influence. The proposed development would therefore be contrary to the proper planning and development of the area .

#### 3.1. Planning Authority Reports

3.1.1. Planning Report: This report notes a lapsed outlined permission, the Development Plan regarding Rural Housing Policy in chapter 3, the siting in a 'general' rural area which is the least sensitive and in a 'Rural Area under Strong Urban Influence' where objectives RS-7 and RS 9 apply. It is noted that there are 9 houses along the cul-de-sac and a potential 9 additional sites. There are no substantive issues regarding visual impact, road safety, drainage or residential amenity. The applicant however has not submitted evidence of ties to this rural area and would not meet with criteria for a rural area under strong urban influence or for a stronger rural area and accordingly does not meet with the rural settlement strategy. No AA or EIA issues arise.

#### 3.1.2. Other Technical Reports

- Roads report: Recommends conditions in event of permission.
- Environment Dept. Recommends conditions in event of permission.
- Bio-Diversity Officer: No potential for significant effect on Natura 200 Sites identified. Recommends conditions in event of permission

#### 3.2. Prescribed Bodies

Irish Water: No objection

### 3.3. **Third Party Observations**

None

## 4.0 **Planning History**

4.1 02/3105 refers to outline permission for one dwelling.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. The Kerry County Development Plan 2015-2021 is the operative development plan.

5.1.2. Listowel is a Regional town functionally classed as ‘smaller in scale than Hub towns but strong active growth towns and economically vibrant.’ The aims of the settlement hierarchy in respect of regional towns are to:

- Promote and facilitate the growth and sustainable development of the towns towards achieving their population targets.
- Facilitate the provision of an appropriate and sustainable range of social and physical infrastructure, facilities and services, including retail and commercial and enterprise development to serve the inhabitants of the towns and their rural hinterlands.

5.1.3. Listowel has a population of 4205 with a growth allocation of 314 whereas the overall district has a population of 28538. (Based on 2016 census estimates.) The zoning of land in the towns is based on available and planned infrastructure investment and a sequential approach so as to ensure that land use zonings promote the sustainable development of compact, liveable, pedestrian/cyclist friendly settlements, with a defined and healthy commercial/retail core. On this basis a housing land requirements of 15.25 hectares is projected for Listowel.

5.1.4. **Rural Housing policy:** The site falls within a **rural area under urban influence**. The following policies are relevant.

- **RS-7** 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

- **RS-9** Facilitate the housing requirements of the rural community as identified while directing urban generated housing into the towns and villages.

## 5.2. Listowel Municipal Local Area Plan 2020-26

5.2.1. The vision for Listowel is to maximise its growth in population and services to a level that will encourage the development of a vibrant regional town, while maintaining and enhancing its physical assets, unique character and natural attributes. In order to allow Listowel to develop in an orderly manner, important strategic issues are, inter alia, that:

- Listowel is promoted as a regional town and every effort is made to achieve its population target as per the core strategy.
- The development of a vibrant town through the provision of an appropriate and sustainable range of social and physical infrastructure, facilities and services, including retail, commercial and enterprise development to serve the inhabitants of the town and its rural hinterlands is a priority.
- New development is located within the town core and contributes positively to the attractiveness of the streetscape.
- Under used/vacant sites, derelict and identified opportunity sites are prioritised for re-use and re-development.

5.2.2. The Listowel environs are identified as being under pressure from urban generated housing. To address this sufficient land has been zoned for residential use within the town development boundary in the Listowel Town Development Plan 2009-2015, to cater for the existing and future residential needs of the population of the town.

- Objective LS-RT-01 seeks to Ensure that Listowel, as a regional town, is a driver of county and regional prosperity by harnessing its strategic location and position in North Kerry; its strong urban structure, existing tourism, retail, service and accommodation base; and other competitive advantages.
- Objective LS-RT-02 seeks to Promote a vibrant, culturally-rich and revitalised town centre with enhanced social inclusion, sustainable neighbourhoods and a high level of environmental quality to ensure an excellent quality of life for all.

### **5.3. National Planning Framework (February 2018),**

5.3.1. National Policy Objective 19 relates to rural housing and seeks to '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,'

### **5.4. Natural Heritage Designations**

The Lower River Shannon SAC (site code 002165) is 30m to the north of the site and includes the River Feale and its dense riparian embankment at this location.

### **5.5. EIA Screening**

The proposed development is of a class but substantially under the threshold of 500 units to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to the nature of the development, which is a single new dwelling and associated site works, the absence of features of ecological importance within the site, I consider that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A first party appeal has been lodged by the applicants against the decision to refuse permission. The grounds are based on the following:

- The application satisfied all criteria regarding percolation, roads and house plans and there no objections.
- The applicants have a housing need and if further submissions were required and requested they could have obliged to submit same.
- Local ties to Listowel: Of the couple, one of the applicants has lived in Listowel town for 15 year and has a business with an office based in the town and the other has lived in the town for 10 years and has a beauty business. Both are hardworking committed locals serving the community through providing employment and involvement in a variety local sporting, drama and voluntary groups among other organisations. They have a child who was Christened in the local church and is enrolled in the local school Gaelscoil Lios Tuathail, Listowel.
- They are renting in the town and need a larger home and garden space for a healthy lifestyle and to pursue gardening.
- The proposed site is just 50m from where less strict criteria would apply.

6.1.2. The Appeal is accompanied by letters from: local Preschool, Gaelscoil, bank, GAA Cub, Listowel Community Centre Lartgue Basketball Club, Golf Society, Pitch and Putt Club and Nano Nagle National School (receipt of contribution) all indicating a form of local involvement.

## 6.2. **Planning Authority Response**

6.2.1. The Planning Authority states in its response of 29<sup>th</sup> November 2021 that the applicants have not indicated any ties to the rural area and have not demonstrated a housing need in this rural area. It is noted that the applicants are intended purchasers of this un-serviced site and are currently renting in Listowel. Permission would set a precedent for further one-off housing.

## 7.0 **Assessment**

### 7.1. **Issues**

7.1.1. Having read the contents of the file and inspected the site I consider the key issue centres on housing need having regard to rural housing policy and settlement strategy. Appropriate Assessment is also a mandatory consideration.

### **7.3 Rural Housing Policy**

- 7.1.2. Kerry County Council in its Development Plan (Section 3.3.1), while recognising the tradition of dispersed settlement, highlights that the scale of dispersed rural housing is unsustainable and uneconomical in terms of infrastructure provision and quality of life. The Objective RS-1 seeks to ensure that future housing in all rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 and the development guidance document of the development plan.
- 7.1.3. Policy Objective 19 of the National Planning Framework seeks to ensure that, in providing for the development of rural housing, 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, it is policy 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 and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.1.4. In this case the site is in a rural area lacking wastewater facilities and safe pedestrian or cycling linkages to the town which is in close proximity. I note that there are 9 houses already located along this cul-de-sac and that the planning authority refers to a potential for nine additional sites. The pressure for one-off housing development is evident in terms of the site history and planning and development history in the locality and having regard to its proximity to the town and the statutory guidance, it is what I would class as being under urban influence. It accordingly falls under the category as rural area under urban influence.
- 7.1.5. In the case, the applicants both live and work in the town and while their connections and positive roles in the local community is not in doubt, their need is urban based by reference to the statutory guidance for sustainable patterns of housing. They do not have a demonstrable rural housing need. I note that there are numerous houses for sale in the area and I also note that the development plan refers to a preference to prioritise a reduction in residential vacancy rates and emphasis on re-use of existing building stock.
- 7.1.6. I consider that permission for a new rural house based on the nature of the need would service to contribute to a pattern of development that would undermine the



strategic aims for Listowel town and a sequential approach to developing serviced and sustainable neighbourhoods .

- 7.1.7. Accordingly, I consider that the basis for refusal regarding housing need is valid. A grant of permission would conflict with Policy Objective 19 of the National Planning Framework, would undermine rural housing policy as set out in the current Kerry County Development Plan in its adherence to Sustainable Rural Housing Guidelines and would therefore be contrary to the proper planning and sustainable development of the area.

## **7.5 Appropriate Assessment**

- 7.5.2. Having regard to the nature and scale of the proposed development, connectivity to the Lower River Shannon SAC (site code 002165) 30m to the north, would be restricted to hydrological pathways. While the site includes open drain/ditches along the western, southern and northern sides, the proposed percolation area which includes a raised gravel bed is 10.5m and 12m from the western and northern boundary ditches. The groundwater flows in a northern direction but the ditch at this location is shown as a piped. The ground is also raised a few metres above the road to the north. There is a private residence , another road and some woodland before reaching the SAC southern boundary. I note the report by the Bio Diversity Officer in which it is noted that there is buffering by the roads, agricultural fields and dense riparian habitat and that the proposed works and discharge to the ground water subject to adherence to the EPA guidelines do not have potential to significantly affect the SAC. I consider that having regard to the nature of the proposed development and separation from the River Feale as part of the nearest European site, absence of a direct pathway connecting the subject site to the SPA, the nature of the immediate receiving environment (i.e. predominantly agricultural) and no direct discharge to any surface waterbody that no Appropriate Assessment issues arise and it is not considered that the 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

8.1 I recommend that permission be refused based on the following reasons and considerations.

### Reasons and Considerations

1. Having regard to –

(i) the location of the site within an "Area Under Strong Urban Influence" as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, and

(ii) National Policy Objective 19 of the National Planning Framework (February 2018), which, for rural areas under urban influence, 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 having regard to the viability of smaller towns and rural settlements,

(iii) The objectives of the Kerry County Development Plan, 2015 to 2021 and the Listowel Municipal District Local Area Plan 2020-2026 which seek to discourage urban generated housing in rural areas and to direct the provision for housing into towns and villages such as Listowel.

it is considered that the nature of the housing need is urban generated and that applicants have not demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with National Policy Objective 19. 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 contravene the provisions of the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Suzanne Kehely  
Senior Planning Inspector

29<sup>th</sup> June 2022