



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312670-22

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<b>Development</b>	Construction of a house
<b>Location</b>	Croagh, Schull, Co. Cork.
<b>Planning Authority</b>	West Cork County Council
<b>Planning Authority Reg. Ref.</b>	21661
<b>Applicant(s)</b>	Andreas James Britz
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Anita Jackson
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> May 2022
<b>Inspector</b>	Liam Bowe

## **1.0 Site Location and Description**

- 1.1. The site is located on rising land that is overlooking Croagh Bay approximately 2.5km to the west of the town of Schull in West Cork. The area and surrounding countryside are dominated by one-off dwelling houses set within their own grounds. The site is presently under grassland and in agricultural use for grazing cattle. Immediately to the west of the site is a single storey farm building and there is a modern two-storey house to the south of the site. The site is accessed via a cul-de-sac from the public road to the east. This cul-de-sac runs for approximately 700m to the access of the appeal site and deteriorates in surface quality towards the site. The access off the cul-de-sac to the site is an agricultural track.
- 1.2. The site itself is of irregular shape and slopes upwards from its south corner (32.94m OD) to its northern corner (c.38m OD) and it has an area of 0.392 hectares. The site boundaries are open on the southern and western sides and a low hedgerow runs along the eastern and northern boundaries.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the construction of a detached dwelling house on the site at Croagh, Schull, Co. Cork.
- 2.2. The proposed house is single storey in design with a double gable feature. The proposed house has a floor area of 219.68m<sup>2</sup> and a ridge height of 5.511m, with render finish, stone cladding on the porch, and black slates / tiles. The house would be served by a private water supply and an on-site wastewater treatment system. A landscaping plan is proposed and part of this involves the planting of apple trees to the southern and western parts of the site and a mixture of oak, ash, birch and alder at selected locations along the northern and eastern site boundaries.

## **3.0 Planning Authority Decision**

### **3.1. Request for Further Information**

Prior to notification of decision, the Planning Authority issued a further information request on 17<sup>th</sup> November 2021 requiring a revised design showing a modest single

storey dwelling house, a comprehensive landscaping plan for the site, clarification of the existence of a spring on the site and confirmation of which trial pit was used in the site. The First Party submitted revised drawings demonstrating a single storey house, a comprehensive landscaping plan, clarifying that two trial holes were dug to ascertain the location of a spring (none found) and clarifying the trial hole (northern) that was used to inform the site assessment.

### **3.2. Decision**

- 3.2.1. By order dated 18<sup>th</sup> January 2022 Cork County Council issued a notification of decision to Grant Permission for the proposed development subject to 8 no. conditions. Of note is the following condition:

Condition No.2: Requirement to enter an occupancy agreement for seven years.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

There are two Planning Reports on file dated 16<sup>th</sup> November 2021 and 18<sup>th</sup> January 2022, respectively. The Planning Officer in the initial report outlined the relevant policies (green belt area associated with Schull) under the Cork County Development Plan 2014 and West Cork Municipal District LAP 2017, and a designated landscape character of 'Rugged Ridge Peninsulas'. The principle of a dwelling house was deemed acceptable, the third party submission and the internal report were noted. The report recommended further information be requested regarding a revised design showing a modest single storey dwelling house, a comprehensive landscaping plan for the site, clarification of the existence of a spring on the site and confirmation of which trial pit was used in the site.

Appropriate Assessment Screening was carried out and concluded that there is no likely potential for significant effects to any Natura 2000 site.

A second Planner's Report (dated 18<sup>th</sup> March 2022) refers to the further information submitted and considered that, having regard to the additional information, permission should be granted subject to 8 No. conditions.

#### **3.3.2. Other Technical Reports**

**Area Engineer:** No objection. Conditions recommended.

### 3.4. **Prescribed Bodies**

None.

### 3.5. **Third Party Observations**

A submission was received from Anita Jackson, Crough Bay Farm, Schull, Co. Cork. The issues raised are generally similar to those referenced in the grounds of appeal. These concerns include the applicant's housing need, groundwater quality, the design of the proposed house, and inadequate road infrastructure providing access to the site.

## 4.0 **Planning History**

### 4.1. **Appeal site:**

None referenced in the Planning Officer's report.

### 4.2. **Adjacent sites to the southwest:**

**P.A. Ref. No. 057071:** Permission granted for a house to Chris & Kathleen Britz.

**P.A. Ref. No. 1875:** Permission for retention of a house granted to Kathleen Britz.

## 5.0 **Policy Context**

### 5.1. **National Planning Framework – Project Ireland 2040 (DoHP&LG 2018)**

#### 5.1.1. The NPF in relation to rural housing includes objective 19 which states –

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; and

- 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. Sustainable Rural Housing Development Guidelines 2005

- 5.2.1. The Sustainable Rural Housing Guidelines require planning authorities to differentiate between rural housing demand arising from rural housing need and housing demand arising from proximity to cities and towns. Additionally, development plans should distinguish rural areas under strong urban influence, stronger rural areas, structurally weak rural areas and areas with clustered settlement patterns. The guidelines state that development management policy should be tailored to manage housing demand appropriately within these areas.

## 5.3. Cork County Development Plan 2022-2028

I draw the Board's attention to the adoption of the Cork County Development Plan on 25<sup>th</sup> April 2022, which came into effect as the statutory plan for the county on 6<sup>th</sup> June 2022.

- 5.3.1. The appeal site is located within an area with a Rural Housing Policy Area Type designation of '**Town Greenbelt**'.

### **Objective RP 5-4: Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1)**

The rural areas of the Greater Cork Area (outside Metropolitan Cork) and the Town Greenbelt areas are under significant urban pressure for rural housing. Therefore, applicants must satisfy the Planning Authority that their proposal constitutes a genuine 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, 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 full-time basis (or part – time basis where it can be demonstrated that it is the predominant occupation), 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 full-time in farming (or part – time basis where it can be demonstrated that it is the predominant occupation), 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) Persons who have spent a substantial period of their lives (i.e., over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.
- e) Returning emigrants who spent a substantial period of their lives (i.e., over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation, who now wish to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire. It is not necessary for the applicant to show that they have already returned to Cork, provided they can show that they genuinely intend taking up permanent residence.

**Objective RP 5-20: Greenbelts around Main Towns GB 1-1**

Discourage strongly new individual housing from being located within the greenbelts around the Main Towns. This restriction is relaxed in principle for individuals who can demonstrate a genuine rural generated housing need based on their social and/or economic links to a particular rural area in accordance with RP 5-4, or in the circumstances referred to in objectives RP 5-16 and RP 5-17, which also apply to Greenbelts around the Main Towns.

5.3.2. The appeal site is located within an area of West Cork designated as a ‘**High Value Landscape**’.

**Objective GI 14-9: Landscape**

- a) Protect the visual and scenic amenities of County Cork’s built and natural environment.
- b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

5.3.3. **Groundwater Protection**

**Objective WM 11-5: Discharges in Unsewered Areas**

- a) Ensure that proposals for development incorporating on-site wastewater disposal systems comply with the EPA Code of Practice Domestic Waste Water Treatment Systems March 2021 (Population Equivalent  $\leq 10$ ) and Wastewater Treatment Manual - Treatment Systems for Small Communities, Business Centres, Leisure Centres and Hotels (1999), or relevant successor approved standards / guidelines (including design, installation and maintenance). The cumulative impact of such systems will also be considered in the assessment process.
- b) Continue to support the roll out of the National Inspection Plan 2018–21 for domestic waste-water treatment systems, and any successor plans, with prioritisation of Blue Dot Catchments and Protected Areas.
- c) Protect the County’s waters from wastewater pollution, through the implementation of the Local Government (Water Pollution) Acts 1977 to 2007, ensuring that all development shall comply with the provisions where applicable.

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

The site is not located within any designated site. The closest Natura 2000 site is Roaringwater Bay and Islands SAC (Site Code: 000101) which is located approximately 400m to the south of the appeal site.

#### **5.5. EIA Screening**

Having regard to the nature and scale of the proposed development and separation from sensitive environmental receptors, I am satisfied that no likely significant impacts on the environment arise from the proposed development and that the carrying out of an EIA is not required in this case.

### **6.0 The Appeal**

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

6.1.1. The grounds of appeal are submitted by Anita Jackson, Crough Bay Farm, Schull, Co. Cork. The main points made can be summarised as follows:

- Contends that the design of the proposed house does not respect the character and pattern of the area and would detract from the landscape.
- Concerned about possible contamination risk to her water supply as she believes that her well is fed from the spring on the appeal site.

#### **6.2. Applicant Response**

6.2.1. The main issues raised in the First Party response to the grounds of appeal can be summarised as follows:

- Contends that the revised house plans are entirely suitable to rural Cork and in accordance with the guidance in the Cork Rural Design Guide.
- States that the appellant's well is located 177m from the western boundary of the appeal site, which is well in excess of the required minimum separation distances from a wastewater treatment system outlined in the EPA Code of Practice 2021.



- States that there was no evidence of a spring on the site when the site suitability assessment was undertaken.
- Reiterates the genuine housing need that was outlined in the planning application.

### 6.3. **Planning Authority Response**

The Planning Authority has not responded to the grounds of the appeal.

## 7.0 **Assessment**

I consider that the main issues in the assessment of this appeal are as follows:

- Rural Housing Policy
- Design and Visual Impact
- Ground Water
- Other Issue
- Appropriate Assessment

### 7.1. **Rural Housing Policy**

- 7.1.1. The key issue to be addressed within this appeal relates to the question of whether the applicant has an economic or social need to live in this rural area that meets the requirements of the rural housing policy. As part of the application to the Planning Authority, the First Party set out the justification for providing a house at this location on the basis of a social need to locate on family lands close to where he was born and reared. In response to the appeal, the First Party reiterates how he complies with rural housing policy, and this is not, therefore, considered to be a new issue.
- 7.1.2. The site is located in an area identified in the Cork County Development Plan 2022-2028 as an 'Town Greenbelt 1-1' and an 'Area Under Strong Urban Influence' as identified in the Sustainable Rural Housing Guidelines. In these areas population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong

agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas.<sup>1</sup>

- 7.1.3. The Sustainable Rural Housing Guidelines for Planning Authorities (2005) state that development driven by urban areas should take place within the built-up areas, and that a distinction should be drawn between development that is needed to sustain rural communities and that which tends to take place in the environs of towns, which should more appropriately take place within urban areas.
- 7.1.4. The policies set out in the Sustainable Rural Housing Guidelines have been reinforced in the more recently published National Planning Framework (2018). In areas under strong urban influence, it is the policy to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic and social need to live in a rural area, having regard to the viability of small towns and rural settings. Thus, it continues to be necessary to demonstrate a functional economic or social requirement for housing need in these areas.
- 7.1.5. Objective RP 5-20: Greenbelts around Main Towns GB 1-1 of the Plan states that it is the Council's policy to discourage strongly new individual housing from being located within the greenbelts around the Main Towns, but this restriction is relaxed in principle for individuals who can demonstrate a genuine rural generated housing need based on their social and/or economic links to a particular rural area in accordance with Objective RP 5-4.
- 7.1.6. In this regard, the First Party is attempting to demonstrate compliance with Objective RP 5-4: Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1) and that their proposal constitutes a genuine rural generated housing need based on their social and / or economic links to the local rural area, and the following category of housing need:

“Returning emigrants who spent a substantial period of their lives (i.e., over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation, who now wish to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire.”

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<sup>1</sup> P.16, Sustainable Rural Housing – Guidelines for Planning Authorities (DoEHLG 2005)

7.1.7. Under this appeal, the First Party has stated that he is a returning emigrant who spent a substantial period of his life (i.e., over seven years), living in the local rural area. It is stated that he wishes to return to both assist his mother with the running of the adjacent Air B&B business and to work remotely for a company in Schull or Galway. I note that the First Party has stated that he resided with his mother in the house to the southwest of the appeal site from 1996 to 2010, however no documentary evidence supporting this statement has been submitted.

7.1.8. In terms of Objective RP-4 and the requirements of the rural housing policy, the application can be summarised as follows:

- a) The First Party is not a farmer, or a son / daughter.
- b) The First Party is not taking over the ownership and running of a farm on a full-time basis.
- c) The First Party is not working full-time in farming (or part – time basis where it can be demonstrated that it is the predominant occupation), forestry, inland waterway or marine related occupations.
- d) On the basis of the information provided, I consider that the First Party has not demonstrated that he has spent a substantial period of his life living in the local rural area.
- e) On the basis of the information provided, I consider that the First Party has not demonstrated that he is a returning emigrant who spent a substantial period of his life living in the local rural area and who now wishes to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire.

7.1.9. Therefore, on the basis of the information available, I am not satisfied that the information provided forms a clear basis for compliance with rural housing policy set out in the development plan or forms a basis for a need to live at this rural location. On the basis of the above, I do not consider that the applicant meets the requirements of the Cork County Development Plan relating to rural housing in an area designated as 'Town Greenbelt 1-1' such as the appeal site. Given the location of the appeal site in an area also designated as an 'Area Under Strong Urban

Influence' and the circumstances of the applicant, I also consider that the proposed development would be contrary to the National Planning Framework and the Sustainable Rural Housing guidelines.

## **7.2. Design and Visual Impact**

- 7.2.1. The proposed development is located within a coastal highly scenic area designated as a 'High Value Landscape' in the Cork County Development Plan 2022-2028. The policy objective GI 14-9 of the Planning Authority, as set out in the Plan, seeks to prevent inappropriate new dwelling houses unless there is an acknowledged local rural generated housing need.
- 7.2.2. As part of a response to an RFI, the First Party submitted revised drawings for the proposed house to the Planning Authority on 15<sup>th</sup> December 2021. The revised plans demonstrate a proposed double apex single storey house with traditional finishes and window openings.
- 7.2.3. The Third Party contends that the design of the proposed house does not respect the character and pattern of the area and would detract from the landscape whilst the First Party contends that the revised house plans are entirely suitable to rural Cork and in accordance with the guidance in the Cork Rural Design Guide.
- 7.2.4. I consider that, on a stand-alone basis, the proposed house design is reflective of a traditional rural house that is suitable to this area of West Cork. However, policy objective GI 14-9 is clear and seeks to prevent inappropriate new dwelling houses unless there is an acknowledged local rural generated housing need. As outlined under section 7.1 of this report, I am not satisfied that the First Party has demonstrated a need for a house at this rural location in accordance with the requirements of the County Development Plan.
- 7.2.5. Furthermore, the First Party proposes to site the house at the highest point on the site. There is no detailed site analysis or design statement included with the appeal / application outlining the reasoning for this. There may be a practical reason for this associated with the requirement for separation distances on the site, but I consider it is, more likely, to avail of the views of Croagh Bay to the southwest of the appeal site.

7.2.6. Given that the appeal site is located within an area of West Cork with a designation of a 'High Value Landscape', where it is an objective (GI 14-9) of the plan to protect the visual and scenic amenities of County Cork's built and natural environment and to protect skylines and ridgelines from development, I consider that the proposed development does not constitute an exception to the restriction on new houses within this 'High Value Landscape' and would, therefore, detract to an undue degree from the rural character and scenic amenities of the area and would constitute an undesirable precedent for development of this nature in a scenic, sensitive rural landscape.

### 7.3. **Ground Water**

- 7.3.1. The appellant is concerned about a possible contamination risk to her water supply as she believes that her well is fed from the spring on the appeal site and the proposed wastewater treatment system would result in a serious risk of pollution and would endanger public health.
- 7.3.2. Objective WM 11-5 in the Cork County Development Plan states that it an objective 'to ensure that proposals for development incorporating on-site wastewater disposal systems comply with the EPA Code of Practice Domestic Waste Water Treatment Systems March 2021 (Population Equivalent  $\leq 10$ )'.
- 7.3.3. The First Party excavated the trial hole to a depth of 1.2m. Bedrock was encountered at this depth and no water table was visible. It is confirmed within the Site Characterisation Report that the appeal site is located over a locally important aquifer with extreme vulnerability, which requires a Groundwater Protection Response of R2<sup>1</sup>. The T Values are stated as 10.72 (subsurface) and 6.64 (surface). Based on these results, the Site Assessor recommended a proprietary wastewater treatment system with secondary and tertiary treatment.
- 7.3.4. On the day of my site inspection, I noted that the ground conditions were good and consistent with those described within the Site Characterisation Form. I observed no evidence of a spring on the site and I note that the appellant's well is located 177m from the western boundary of the appeal site, which is well in excess of the required minimum separation distances from a wastewater treatment system outlined in the

EPA Code of Practice 2021. On this basis, I do not consider the proposed development would be likely to pose a significant risk to ground water.

- 7.3.5. I conclude, based on the material submitted with the application, that the appeal site is suitable for the safe disposal of domestic effluent and with the installation of a proprietary wastewater treatment system, that the proposed development would not create a serious risk of ground water pollution or risk to the water supply of the appellant's property.

#### **7.4. Other Issue**

##### Traffic Safety – New Issue

- 7.4.1. The access to the appeal site is approximately 700m from the public road along a private road / cul-de-sac. Following my site inspection, I noted the substandard nature of this road in terms of road condition, width and alignment. The road currently serves 17 no. houses and I noted that the road cannot accommodate passing traffic, except at existing entrances to the houses. Although I have serious concerns about road safety along this private road and I consider further residential would exacerbate the existing problem, I do not recommend including it as a reason for refusal due to the substantive issues highlighted earlier in this report.

#### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the development proposed and the absence of any direct or indirect pathway between the appeal site and any European site and the separation distances to the nearest European site (Roaringwater Bay and Islands SAC (Site Code: 000101) which is located approximately 400m to the south of the 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**

I recommend that permission be refused for the reasons stated below.

## 9.0 Reasons and Considerations

### 1. Having regard to:

- The location of the site within a rural area identified as being an area under strong urban influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government 2005 and 'Town Greenbelt 1-1' under the Cork County Development Plan 2022-2028,
- National Policy Objective 19 of the National Planning Framework (February 2018) which seeks 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,
- The provisions of the Cork County Development Plan 2022-2028 and specifically Objective RP-4, which facilitates the provision of rural housing for local rural people building in their local rural area, and
- The absence of documentary evidence on the file outlining the applicant's need to live in this rural area,

the Board could not be satisfied on the basis of the information on the file that the applicants come within the scope of either economic or social housing need criteria as set out in the overarching National Guidelines or the definition of a local rural person in accordance with the relevant criteria of the development plan.

The proposed development, in the absence of any identified locally based need for a house at this location, would result in a haphazard and unsustainable form of development in an unserved area, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the

development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site is designated as 'High Value Landscape' under the provisions of the Cork County Development Plan 2022-2028 where it is an objective (GI 14-9) of the plan to protect the visual and scenic amenities of County Cork's built and natural environment and to protect skylines and ridgelines from development. This designation and policy are considered reasonable. Having regard to the design and siting of the proposed development it would detract to an undue degree from the rural character and scenic amenities of the area, would be contrary to the provisions of Cork County Development Plan and would constitute an undesirable precedent for development of this nature in a scenic, sensitive rural landscape designated 'High Value Landscape' in the Cork County Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Liam Bowe  
Planning Inspector

20<sup>th</sup> July 2021