



An
Bord
Pleanála

Inspector's Report ABP 312807-22

Development	House and associated works
Location	Coolcarron, Belgooly, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	21/5630
Applicant	Denis Kelly
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Mary Cronin & Others
Observer(s)	None
Date of Site Inspection	01/11/22
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 0.396 hectares, comprises part of a larger triangular shaped field in the townland of Coolcarron c. 2.5 km to the north-west of Belgooly village, c. 2.8 km to the south of Riverstick and c.5km to the north of Kinsale.
- 1.2. The site is also triangular in shape and comprises the western most corner of the field close to the junction of two local roads. The site slopes from north/north-east to south-west. The field boundaries are delineated by hedgerows with a dormer dwelling to the north served by an entrance off the local road to the north. There is a single storey dwelling to the north-west setback from the site boundary with the driveway serving the dormer dwelling in between.
- 1.3. The Board is advised that there is a concurrent appeal for a dwelling in the south-eastern most corner of the field. File ref. ABP 312842-22 refers.

2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the **11/06/21** with further plans and details submitted **26/11/21** following a further information request dated 23/07/21 with revised public notices received 22/12/21.
- 2.2. The proposal is for a two storey dwelling with a stated floor area of 228 sq.m. served by a new entrance from the local road. It is to be served by a septic tank and percolation area. A site characterisation form accompanies the application. A T value of 36.54 and P value of 27.89 were recorded. Water supply is to be from a private well.
- 2.3. The applicant is not the owner of the site. Details of his connection to the area accompany the application. He resides with his parents in the townland of Lacknacummeen which is c. 2km to the east of the appeal site. He is employed in Kinsale.
- 2.4. The landowner is willing to enter into a section 47 agreement for a period of 7 years for the remainder of the land.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 15 conditions including:

Condition 1: Occupancy clause

Condition 2: Section 47 agreement precluding development for 7 years on lands outlined in the map accompanying application.

Condition 4: Existing hedgerow along northern boundary to be retained.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **1st Planner's** report dated **23/07/21** notes:

- The applicant complies with the housing eligibility criteria.
- In view of the landowner's history, circumstances and the adjacent application, exceptional circumstances exist on which to request the landowner to enter into a section 47 agreement.
- The dwelling position is too close to the dwellings to the north which are at a much lower level.
- A two storey dwelling at such a location is capable of being accommodated subject to its relocation further south. A dormer design could be considered.
- Area Engineer's report noted.

The **2nd Planner's** report dated **24/01/21** following further information recommends a grant of permission subject to conditions.

3.2.2. Other Technical Reports

1st Area Engineer's report dated **21/07/21** recommends further information on sight distances at proposed entrance, surface water drainage, location of well and details on other wastewater treatment systems within 250 metres. The **2nd report** dated **14/12/21** has no objection subject to conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Objections to the proposed development received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3rd party appeal summarised in section 6.1 below.

4.0 Planning History

ABP 312842-22 – current 3rd party appeal against the planning authority's notification of decision to grant permission for a dwelling and associated works in the eastern corner of the same field to which the current appeal refers.

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;

5.2. Development Plan

- 5.2.1. Since the lodgement and adjudication of the application by the planning authority the Cork County Development Plan 2022 came into effect on 06/06/21.
- 5.2.2. **Section 5.3.6** states that in the absence of new rural housing guidelines, it is not feasible to reconcile the approach of the NPF, which recognises the rights to

freedom of movement amongst EU citizens and is based on having a 'demonstrable economic and social need' to construct a house in a rural area, with the detailed approach set out in the current guidelines issued in 2005, which remain in force, which advocate that people who are part of the rural community should be accommodated there. The rural housing policy of this plan is therefore based on the 2005 Guidelines.

5.2.3. The Plan recognises the positive benefits for rural areas to sustain and strengthen the vibrancy of rural communities by allowing qualifying applicants to build a first home for their permanent occupation in a 'local rural area' to which they have strong economic or social links as defined in the following objectives RP 5-3 to RP 5-7. The meaning of 'local rural area' is generally defined by reference to the townland, parish, or catchment of the local rural school to which the applicant has a strong social and/or economic link.

5.2.4. The site is within an area designated as being a rural housing area under strong urban influence.

5.2.5. **RP 5-4: Rural Area under Strong Urban Influence and Town Greenbelts (GB1-1)**

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.

5.2.6. **Section 5.6** sets out the Environmental and Site Suitability Requirements for rural houses.

5.3. **Natural Heritage Designations**

None in the vicinity. The nearest are Cork Harbour SPA c.12km to the east and Sovereign Islands SPA c. 9 km to the south.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The 3rd Party appeal against the planning authority's notification of decision to grant permission can be summarised as follows:

- The house design is out of keeping with the rural area and the dwellings in the vicinity. It is contrary to the Cork Rural Design Guide. The examples given in support of a 2 storey design are not comparable and should not set a precedent.
- The dwelling would adversely impact on the amenities and privacy of adjoining dwellings.

- A revised design, 1 ½ storeys in height, would have reduced its overbearance somewhat.
- The relocation of the dwelling by way of further information impacts on the position of the bore well and septic tank and percolation area.
- While it is accepted that the applicant meets the rural housing criteria regard should be had to the provisions in the development plan for Belgooly and Riverstick where lands are zoned for development.
- The future needs of current residents should be taken into consideration.
- Conserving the rural area and sustainable approaches to one off housing should be taken into consideration when granting permission.
- The area is not serviced.
- The letter of consent from the landowner to enter into a section 47 agreement does not give enough clarity as to whether the entire holding would be sterilised for 7 years or whether it is just the 6.5 acre field in which the application is proposed. It is queried whether the agreement would be affected should the land be transferred to a 3rd party.
- Condition 6 should state that soakaways must be used.
- The further information response showing effluent treatment systems in the vicinity is inaccurate.
- The use of a silt fence was not explained fully.
- It is queried what will replace the ditch along the roadside if required to be removed to allow for sightlines. By removing the ditch account needs to be had to the potential for excess water runoff. There may be a need for a drain running the entire length of the site which bounds the public road. A drain across the entrance, only, would not suffice.
- Procedural issues arising during the planning authority's assessment of the application raised.

6.2. Applicant Response

None. Response received outside the statutory period.

6.3. Planning Authority Response

All the relevant issues have been covered in the technical reports on file. No further comment.

6.4. Observations

None

7.0 Assessment

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

- Compliance with Settlement Location Policy
- Visual Impact and Impact on Amenities of Adjoining Property
- Site Servicing
- Other Issues
- Appropriate Assessment

7.1. Compliance with Settlement Location Policy

- 7.1.1. Since the lodgement of the application and its assessment by the planning authority the new Cork County Development Plan 2022 has come into effect.
- 7.1.2. In terms of rural settlement location policy section 5.3.6 of the plan states that in the absence of new rural housing guidelines, it is not feasible to reconcile the approach of the National Planning Framework which is based on having a 'demonstrable economic and social need' to construct a house in a rural area, with the detailed approach set out in the current guidelines issued in 2005, which remain in force, and which advocate that people who are part of the rural community should be accommodated there. The rural housing policy of the plan is, therefore, based on the 2005 Guidelines.

- 7.1.3. The said Rural Housing Guidelines (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. The Guidelines also state that urban generated housing can give rise to haphazard and piecemeal development with problems such as disorderly and inefficient patterns of development, obstruction of alignment of future infrastructure projects, undermining of investment in infrastructure and higher public expenditure. Such development is clearly unsustainable and is likely to create additional and unnecessary problems for the supply of infrastructure and services and to increase car dependency and high energy use
- 7.1.4. I submit that the above provisions are effectively endorsed in the National Planning Framework and, in particular, I 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.
- 7.1.5. The site is within a rural area identified as being under strong urban influence in the development plan. Whilst the immediate vicinity exhibits a low density of residential development the wider area shows evidence of pressure for one off housing. I submit that in view of the site's relative proximity both to Cork city and to Kinsale and its obvious attractiveness for urban generated housing demand, the above referenced designation is considered to be entirely reasonable.
- 7.1.6. The current County Development Plan in objective RP 5-4 states that applicants must demonstrate 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 a number of criteria listed.

- 7.1.7. It is clear that the overall settlement strategy, which is expressed in the hierarchy of national and local policies and plans, is to seek to prevent urban sprawl and to ensure that development takes place in appropriate locations in a sustainable manner which protects the vibrancy of rural communities, but in such a way that it does not give rise to long term problems for both the urban centres and for the rural environment.
- 7.1.8. I consider that a high bar is set in terms of demonstrating an applicant's need to have a house at such a 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. In my opinion the case made in this instance falls short.
- 7.1.9. In terms of the applicant's compliance with the criteria set out in development plan objective RP 5-4 I note that he is not the farmer or the owner/operator of the landholding, is not engaged full-time in either farming, forestry, or other rural-based activities and is not a son/daughter of the landowner. It is acknowledged that the applicant has spent a considerable period of his life in this local area and continues to reside in the family home c.2km to the south-east of the site, however he has not demonstrated that he has an economic or social imperative to live in this local area. I note that he is employed in Kinsale.
- 7.1.10. It is further considered that the housing need could easily be accommodated within one of the nearby settlements of Riverstick and Belgooly which are designated as key villages in the current County Development Plan. The plan's vision is to consolidate and promote development in such settlements (see sections 1.8 and 1.11 Volume 5). As noted previously whilst the immediate vicinity of the site remains largely in agricultural use the wider area has a pattern of one off housing which would suggest that the vibrancy of the rural community is not likely to be under any threat of decline. It is considered that the established rural settlement policies for the area, which seek to avoid the overdevelopment of rural areas under strong urban influence, and to direct such development to towns and villages, would be contravened. The proposed development would, therefore, be in conflict with the provisions of the National Framework Plan (2018), the Sustainable Rural Housing Guidelines for Planning Authorities (2005) and the Cork County Development Plan (2022) and should be refused.

7.2. Visual Impact and Impact on Amenities of Adjoining Property

- 7.2.1. The site, whilst not within an area designated as being a high value landscape in the current county development plan, has an innate quality and has visual merit in its own right. Objective GI 14-9 of the current plan seeks to protect the visual and scenic amenities of the county's natural environment.
- 7.2.2. The existing housing stock in the vicinity provides for a mix of house designs, heights and sizes and of varying ages. The proposed two storey dwelling of somewhat generic design, would not be at variance with same.
- 7.2.3. I consider that the substantive issue is the positioning of the dwelling relative to the existing dwellings to the north and particularly the dormer dwelling to the north-east. The said dwelling is at a lower level than the appeal site which slopes down from north/north-east to the road. As originally proposed the dwelling was to be set back into the site at its highest point. In response to the further information request the dwelling position was moved further south maintaining a setback from the northern site boundary of 26 metres at its closest point with a separation of over 45 metres from the nearest point of the dwelling to the said dormer dwelling to the north-east. I submit that this separation distance will ensure that the amenities of the adjoining property would not be adversely impacted by reason of overlooking, loss of privacy or overshadowing. I note that the hedgerow along the northern boundary is to be retained. A condition requiring its augmentation could be attached should the Board be disposed to a favourable decision.

7.3. Site Servicing

- 7.3.1. The application is accompanied by a site characterisation form in which it is confirmed that the site is suitable for a septic tank and percolation area. A Tier 1 Hydrogeological Assessment was submitted by way of further information. The site is sufficiently sized to ensure the necessary setbacks are maintained both from the proposed dwelling it is to serve and from the field boundaries. This detail is provided on the plans accompanying the further information request. The location of the bored well is also delineated on the plans. Whilst the appellants contend that the detail provided on the existing effluent treatment systems within 250 metres is incorrect, as above, I consider that the site is of sufficient size to ensure the

necessary separation distances and positioning relative to bore wells as not to raise concerns in terms of public health.

7.3.2. The local road from which access is proposed was noted to very lightly trafficked on day of inspection. It has been demonstrated by way of further information that the necessary sightlines can be attained and maintained. I do not consider that the proposal raises concerns in terms of traffic hazard.

7.3.3. The disposal of surface water runoff can be adequately addressed by way of condition to ensure that adjoining properties and the public road are not adversely impacted. The requirements as set out in such a condition would be in line with best practice.

7.3.4. A silt fence is proposed to be used during the construction phase with details of same provided by way of further information.

7.4. Other Issues

Section 47 Agreement

7.4.1. The section 47 agreement required by condition 2 of the planning authority's decision refers specifically to the lands outlined on the map submitted by way of further information which delineate the field in which the dwelling is located.

Procedural Issues

7.4.2. The issues raised regarding the planning authority's assessment of the application are not for comment or adjudication by the Board.

Environmental Impact Assessment

7.4.3. The proposed development is for the construction of a single dwelling house, septic tank and percolation area on a greenfield site in a rural area. Having regard to the nature, size and location of the proposed development, and to the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Appropriate Assessment

- 7.4.4. In view of the limited nature and scale of the development and the separation distance to the nearest 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

I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the location of the site within an Area Under Strong Urban Influence, as identified in the current Cork County Development Plan 2022, 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, the Board is not satisfied that the applicant comes within the scope of the housing need criteria as set out in the Guidelines and in the Development Plan and does not comply with National Policy Objective 19. The proposed development, in the absence of a demonstrable economic or social need for the house, 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. The proposed development would, therefore, contravene the policies contained in the National Framework Plan (2018), the Sustainable Rural Housing Guidelines (2005) and the Cork County Development Plan (2022) and would be contrary to the proper planning and sustainable development of the area

Pauline Fitzpatrick
Senior Planning Inspector

November, 2022