



An
Bord
Pleanála

Inspector's Report

ABP-313406-22

Development	Retention of dwelling and domestic shed.
Location	Glanlough, Bantry, Co. Cork,
Planning Authority	West Cork County Council
Planning Authority Reg. Ref.	21648
Applicant(s)	Tadhg O'Sullivan
Type of Application	Retention Permission
Planning Authority Decision	Grant Retention
Type of Appeal	Third Party
Appellant(s)	Charles & Julie McCarthy
Date of Site Inspection	5 th October 2022
Inspector	Liam Bowe

1.0 Site Location and Description

- 1.1. The appeal site is located on the Sheep's Head Peninsula in West Cork. It is situated in the countryside approximately 11km to the southwest of the junction of the L4702 local road and the N71 national road and Bantry town. The site is located off this county road and is accessed via a private access road that also serves four houses, all on their own large sites.
- 1.2. The site of the development for retention has a stated area of 0.85 hectares. The site is comprised of a two-storey house, landscaped garden, a domestic garage and three small sheds to the side of the house. Bantry Bay is located approximately 35m to the north of the site. There is a house immediately to the south of the appeal site and three houses to the east.

2.0 Proposed Development

- 2.1. The development comprises the retention of a house (stated area of 178.96m²) on the site, and the retention of a domestic garage (stated area of 52.7m²) and sheds (stated areas of 9.1m², 8.2m² and 22.13m²) to the side of the house, all at Glanlough, Bantry, Co. Cork. The house is serviced by a private well, an existing on-site wastewater treatment system, and a soak pit for surface water drainage.

3.0 Planning Authority Decision

3.1. Request for further information

- 3.1.1. Prior to its notification of decision, the Planning Authority issued a further information request on 2nd November 2021 requiring details of changes to the house, the timber structures on the site not annotated on the site layout plan or elevational drawings, and a Site Characterisation Report.
- 3.1.2. In response, the first party submitted details of the changes to the house and the timber structures on the site. The Planning Authority issued a further request on 2nd December 2021 requiring details of the water table and confirmation that the wastewater system (as installed) is fit for purpose and functioning properly (or

otherwise) and a revised site layout plan indicating the proposed routing of a surface water drain.

- 3.1.3. In response, the first party submitted a Site Characterisation Report and a revised site layout plan demonstrating the location of a proposed new wastewater treatment system and the location of the surface water drain.

3.2. Decision

- 3.2.1. By order dated 28th February 2022 Cork County Council issued a notification of decision to Grant Permission for the proposed development subject to 6 no. conditions. Of note is the following conditions:

Condition No.2: Limiting the use of the domestic garage and other ancillary structures.

Condition No.5: Surface water shall be disposed within the site to soakaways.

Condition No.6: Septic tank drainage system shall be upgraded.

3.3. Planning Authority Reports

3.3.1. Planning Report

The Planning Officer in the initial report dated 2nd November 2021 outlined the relevant development plan policy, the planning history on the site, and concerns regarding the lack of detail in relation to the changes to the house, the timber structures on the site not annotated on the site layout plan or elevational drawings, and excess surface water at the location of the percolation area. Further information was recommended.

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

A second report, subsequent to the submission of a response to further information, recommends a grant of permission consistent with the notification of decision which issued.

3.3.2. **Other Technical Reports**

Area Engineer: The initial report dated 22nd October 2021 outlined concerns in relation to excess surface water at the location of the percolation area. A second report, subsequent to the submission of a response to further information, stated that there was no objection to the proposed development and conditions were recommended.

3.4. **Prescribed Bodies**

None.

3.5. **Third Party Observations**

None.

4.0 **Planning History**

4.1. **Appeal site:**

P.A. Ref. No. 04/6597: Permission granted for a house to Julie O'Regan & Tadhg O'Sullivan.

ABP-313070-22: Charles & Julie McCarthy were granted leave to appeal the permission issued by Cork County Council under P.A. Ref. No.21/648.

5.0 **Policy Context**

5.1. **Cork County Development Plan 2022-2028**

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

- 5.1.1. 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.

5.2. Natural Heritage Designations

The site is not located within any European site. The closest Natura 2000 site is the Sheep's Head SAC (Site code: 000102) located approximately 80m to the south of the appeal site.

5.3. EIA Screening

Having regard to the nature and scale of the development and separation from sensitive environmental receptors, I am satisfied that no likely significant impacts on the environment arise from the 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 Gerald McCarthy, Architect, 72 Main Street, Macroom, Co. Cork on behalf of the First Party, Charles & Julie McCarthy, and the main points made can be summarised as follows:

- Contend that the incorrect red line boundary was used on the application.

- State that their right of way has not been shown on the site layout plan and that a 4m set back distance is required.
- Contend that this right of way will be flooded as a result of a discharge pipe and that this will also lead to flooding of the percolation area on the site.

6.2. Applicant Response

6.2.1. The First Party responded to the grounds of appeal and the main points made can be summarised as follows:

- Contends that the boundary lines on the land registry map is a legal matter and not an issue for the Planning Authority.
- States that the right of way has not been exercised since 2007 and that this is also a legal matter.
- States that the issues about the surface water and the percolation area have been addressed in detail.

Land Registry maps are included with the response to the appeal.

6.3. Planning Authority Response

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

7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Disposal of Surface Water
- Other Issues
- Appropriate Assessment

7.1. Disposal of Surface Water

7.1.1. The Third Party contend that their right of way will be flooded as a result of a discharge pipe and that this will also lead to flooding of the percolation area on the site. The right of way indicated by the appellants is a triangular area located at the northwestern corner of the appeal site. In response to the appeal, the First Party

states that the issues about the surface water and the percolation area have been addressed in detail.

- 7.1.2. In response to the RFI, the First Party submitted revised proposals for the disposal of surface water on 7th February 2022. This included details of an existing 150mm surface water drain that discharges from the access road to the grass area to the north of the access road and into a drain/ditch that runs along the northern boundary of the appeal site (Drawing No. Site Layout Plan 6th February 2022 refers).
- 7.1.3. In the original site layout plan submitted to the Planning Authority on 20th September 2021, the First Party had indicated that the percolation area was located in the area where the surface water was draining to. The First Party confirmed in the RFI response that this is not the case. The revised site layout plan clearly indicates that the percolation area is located further to the west on the site.
- 7.1.4. On the day of my site inspection, I did not observe the presence of any surface water at the location where the First Party indicated surfacing water to be draining to or in the lower/northern part of the site that the Third Party references. In response to the RFI, the T-value is indicated as 26.39 in the Site Characterisation Report. Therefore, following both my observations on site and the results of the results of the percolation test, I am satisfied that the drainage is good on the appeal site. I note that the Planning Authority included a condition requiring surface water to be disposed of within the site by means of soakaways and to be directed away from the percolation area. If the Board is minded to grant permission, I recommend that these requirements are also attached by means of condition(s).
- 7.1.5. In conclusion, I consider that the surface water run-off from the development can be adequately disposed via soakaways on the appeal site. I am satisfied that there will be no additional surface water impacts as a result of this development for retention permission and I, therefore, do not recommend that permission is refused on grounds of potential impacts of stormwater disposal.

7.2. Other Issues

Wastewater Treatment and Disposal

- 7.2.1. The First Party proposes to treat the wastewater by means of a new septic tank system and discharge to the existing percolation area. On the day of my site

inspection, I noted that the ground conditions were good and, in my opinion, consistent with those described within the Site Characterisation Form. I am satisfied that the proposals for the treatment and disposal of wastewater conform with the EPA guidance issued under the 2021 Code of Practice. I conclude, based on the material submitted with the application and my observations, that the appeal site is suitable for the safe disposal of domestic effluent and with the installation of a new septic tank system, that the proposed development would not create a serious risk of ground water pollution.

Legal

7.2.2. The Third Party contends that the incorrect red line boundary was used on the application and that their right of way has not been shown on the site layout plan and that a 4m set back distance is required. In response to the appeal, the First Party submitted Land Registry maps demonstrating the landholding.

7.2.3. On the basis of the information available, I am satisfied that there is no clear information presented to conclude that the applicant does not have sufficient legal interest in the appeal site, and I am satisfied that the applicant has provided sufficient evidence of their legal interest for the purposes of the planning application and decision. In any case, this is a matter to be resolved between the relevant parties, the applicant and the local authority in this instance, having regard to the provisions of S.34(13) of the 2000 Planning and Development Act.

7.3. Appropriate Assessment

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 ((Sheep's Head SAC (Site code: 000102))), 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 retention of the development be granted for the following reasons and considerations, subject to conditions.

9.0 Reasons and Considerations

Having regard to the established principle of a house on the site and the design, character and layout of the development, it is considered that the development would not adversely impact on the visual amenities of the area, would not give rise to a risk of flooding, would not be prejudicial to public health, would be consistent with the provisions of the Cork County Development Plan, and would otherwise be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained in accordance with the plans and particulars lodged with the application, and the further information submitted on the 12th day of November 2021, the 7th day of February 2022 and the 11th day of February 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The domestic garage / sheds shall be solely for purposes incidental to the enjoyment of the dwelling house and shall not be used for other type of residential use, industrial, business and/or commercial purposes.</p> <p>Reason: In the interest of residential amenity and in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>(a) The treatment plant shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 7th day of February 2022 and the 11th day of February 2022, and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent \leq 10)" – Environmental Protection Agency, 2021. No system</p>

	<p>other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the percolation area.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

Liam Bowe
Planning Inspector

24th October 2022