



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313506-22

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<b>Development</b>	Construction of a new dwelling house, wastewater treatment system and all associated site works
<b>Location</b>	Ballinoroher, Timoleague, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	22106
<b>Applicant(s)</b>	Stephanie Byrnes
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Stephanie Byrnes
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	8th August 2023
<b>Inspector</b>	Eoin Kelliher

## 1.0 Site Location and Description

- 1.1. The subject site is situated in the townland of Ballinoroher, circa 3.5km west of Timoleague, County Cork. The site is located on the south side of a narrow county road on the crest of a hill with expansive views of the surrounding countryside / Argideen River Valley.
- 1.2. The site comprises a portion (0.28ha) of the northern end of a field that forms part of a small agricultural landholding (circa 4.3ha) owned by the applicant's father since 2006. There are no farm buildings on the landholding and there were no farm animals on the land on the date of my inspection. The land appears to be in use for silage production. The topography of the site rises gently towards the east and southeast. The roadside and side boundaries of the site are defined by stone and sod ditches and hedgerows interspersed with small trees. The site is accessible from the public road via an existing field gate at the southwestern end of the roadside boundary.
- 1.3. The surrounding landscape is characterised by rolling pastoral farmland interspersed with farmsteads and rural housing. The Michael Collins Centre (museum) is located circa 0.2km west of the site.

## 2.0 Proposed Development

- 2.1. Permission is sought for the construction of a dwelling house, wastewater treatment system and all associated site works.
- 2.2. The proposed dwelling comprises a single storey three-bedroom house with an L-shaped plan and pitched roofs set 19.5m back from the roadside boundary. The house has a stated floor area of 142sq.m and a ridge height of 4.86m above ground level. The overall form of the house is of traditional scale and proportions; the proposed fenestration and façade treatments have a modern aesthetic. External finishes include smooth painted sand cement render to the walls and blue/black fibre cement slates to the roof.
- 2.3. An on-site secondary wastewater treatment system is proposed to the east of the site. Surface water is to be disposed of within the site by way of soakaways. A private well is to be bored on site for the purposes of water supply.

## 3.0 Planning Authority Decision

### 3.1. Decision

By Order dated 19<sup>th</sup> April 2022 Cork County Council decided to refuse permission for two reasons.

The first reason for refusal related to the visual prominence of the site, its visibility over a wide area, and the break in the skyline arising from the proposed development, resulting in an unduly prominent feature in the landscape contrary to Objective GI6-1 of the County Development Plan (2014).

The second reason for refusal states that based on the information submitted with the application the applicant does not comply with the rural generated housing need criteria applicable to a 'Tourism and Rural Diversification Area' as set out in Objective RCI 4-3 of the County Development Plan.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

3.2.2. The Area Planner's report indicates the applicant was advised on two occasions prior to making the application that she does not comply with the rural housing criteria for a 'Tourism and Rural Diversification Area'. It was noted that the applicant is from the far side of Timoleague village which is 5km from the subject site and six townlands away as the crow flies. The applicant's effort to address the concerns raised in respect of a previously proposed dwelling c.50m to the east of the site by way of a low-profile single storey dwelling was acknowledged. However, the Area Planner noted that the proposed dwelling would break the skyline when travelling from the Michael Collins Centre towards the site.

3.2.3. The Area Planner recommended refusing permission owing to (1) non-compliance with Objective RCI 4-3 of the County Development Plan in respect of rural housing need, and (2) the impact of the proposed development on the skyline / ridgeline contrary to Objective GI 6-1.

3.2.4. The Area Planner's recommendation was endorsed by a Senior Executive Planner and is reflected in the Council's decision to refuse permission.

### 3.2.5. Other Technical Reports

Area Engineer: Report dated 28<sup>th</sup> March 2022 raises no objection to the proposed development subject to conditions including, *inter alia*, that sight distances of 80m, in both directions, at a point 3 metres back from the public road, shall be provided in the centre of the vehicular entrance to the satisfaction of the Planning Authority, and that vegetation or any structure shall not exceed 1m in height within the sight distance triangle.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

None.

## 4.0 Planning History

Subject Site: None.

Relevant Applications:

**P.A. reg. ref. 09/713:** Permission refused 19<sup>th</sup> October 2009 for the construction of a dwelling, garage and domestic wastewater treatment system for Edmund and Ann Byrnes (the applicant's parents) on a site in the adjoining field to the east of the subject site.

The reason for refusal related to the location of the proposed development in an elevated and prominent location, where the proposed development would give rise to skyline development and form an unduly prominent feature on the landscape.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2022

The subject site is situated in a 'Tourism and Rural Diversification Area' as identified in the County Development Plan for the purposes of determining rural housing need.

The Plan states these parts of rural and coastal County Cork exhibit characteristics such as evidence of considerable pressure for rural housing, in particular higher demand for holiday and second home development.

**Objective RP 5-5** of the Plan sets out the rural housing policy for 'Tourism and Rural Diversification Areas'. In these areas applicants must demonstrate that their proposal complies 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, marine related occupations or rural based sustainable tourism, for a period of over three 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) Persons whose predominant occupation is farming / natural resource related, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.
- f) Persons whose permanent employment is essential to the delivery of social and community services and intrinsically linked to a particular rural area for a period of over three consecutive years and who can demonstrate an economic and social need to live in the local rural area where they work, within which it is proposed to build a first home for their permanent occupation.

g) 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.

The Plan states 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.

The site is located c.1km north of an identified scenic route (ref. S73) which follows the R600 regional road and a section of the N71 national road from Timoleague to Clonakilty.

The following objectives are also relevant:

**RP 5-1 and RP 5-2:** To discourage urban-generated housing in rural areas and facilitate those with a rural generated housing need to live within their rural community.

**RP 5-22:** Regarding the design and landscaping of new dwelling houses and replacement dwellings in rural areas.

**RP 5-23:** Regarding servicing single houses (and ancillary development) in rural areas.

**GI 14-9:** Regarding the protection of the visual and scenic amenities of the built and natural environment including, *inter alia*, ensuring that new development meets high standards of siting and design, protecting skylines and ridgelines from development, and discouraging proposals necessitating the removal of extensive amounts of trees, hedgerows and historic boundary walls or other distinctive boundary treatments.

**GI 14-13** seeks to protect views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in the Plan.

## 5.2. Natural Heritage Designations

The nearest European sites are:

- Courtmacsherry Estuary SAC (Site Code 01230) c. 3.3km to the E.
- Courtmacsherry Bay SPA (Site Code 04219) c. 3.3km to the E.
- Clonakilty Bay SPA (Site Codes 04081) c. 4.7km to the SW.
- Clonakilty Bay SAC (Site Code 00091) c. 4.7km SW.

## 5.3. EIA Screening

Having regard to the residential nature and small scale of the proposed development, which comprises a dwelling served by an on-site domestic wastewater treatment system and surface water soakaways, and the absence of any connectivity to any environmentally sensitive location, 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This first-party appeal was made by Edge Architecture on behalf of the applicant against the decision of Cork County Council to refuse permission. The grounds of appeal are summarised as follows:

- The proposed development cannot be seen from Scenic Route S73 and as such does not contravene Objective GI 6-1 of the County Development Plan (2014).
- Site poles were erected on the site to refute preplanning feedback received in respect of the proposal. The proposed development is located within a hidden dip in a ridge which would screen the proposal. Ground levels rise 137m east towards the Carhoo townland junction and up to 144m west toward the townland of Cooligboy along the ridge. Photographs of the application site from surrounding viewpoints have been submitted.

- The photographs contained in the planning report have been taken outside the site on the public road at near crouching level; the public road itself is well below the level of the site at this location.
- Apart from the site entrance, the only other location that the proposed development can be seen from the public road is on much lower ground close to the Michael Collins Centre; the impact on this view alone does not amount to a contravention of Objective GI 6-1.
- The proposed development is not located within a designated High Value Landscape. The proposed dwelling is of very low scale and traditional form and closely follows many of the design principles sets out in the Cork Rural Design Guide.
- The subject site has been farmed and in the ownership of the applicant's family for approximately 16 years.
- The applicant complies with the rural housing criteria applicable to a 'Tourism and Rural Diversification Area' set out in Objective RCI 4-3 in respect of categories (a) and (d). The applicant has lived just 5km from the family landholding all her life; the site is the only landholding available to the applicant.
- The local property market in the immediate area of the site and Timoleague is in a distressed state. Many of the properties that come up for sale in West Cork are purchased by outside investors as holiday homes, which prices locals out of the market. The applicant's only opportunity to obtain a home of her own is to develop the application site on family land within her local area.

## **6.2. Planning Authority Response**

None.

## **6.3. Observations**

None.



## 7.0 Assessment

7.1. I consider the following to be the main issues to be addressed in this appeal:

- Rural Housing Need
- Visual Impact on the Landscape
- Road Safety (New Issue)
- Appropriate Assessment

### 7.2. Rural Housing Need

7.2.1. A Supplementary Planning Application Form (SF1) and supporting letters prepared by the applicant, the Parish Priest, and the principal of Timoleague National School were submitted with the planning application. I note the following:

- The applicant is employed as a teacher in Colaiste an Spioraid Naoimh in Bishopstown, Cork City.
- The applicant's family home is located c.5km from the subject site.
- She has lived in the family home at Friarsfield, Abbeymahon, Co. Cork for twenty-four years.
- She attended Timoleague National School between 1999 and 2007 and the Sacred Heart Secondary School in Clonakilty from 2007 to 2013.
- She received her First Communion and Confirmation at the Church of the Nativity in Timoleague.
- She is a member of the local GAA club.
- The subject site forms part of a landholding in her father's ownership since 2006 and is used for farming purposes.

7.2.2. The agent's cover letter submitted with the planning application states the applicant complies with housing need category (d) applicable to 'Tourism and Rural Diversification Areas' i.e., that she has spent a substantial period of her life living in the local rural area. I note the applicant did not, at the time of the planning application, claim to be the daughter of a farmer, as she does in her appeal. In any event, I am not satisfied that the applicant can be considered under this category

when the family landholding measures just 4.3ha and does not appear to be in use for rearing animals or growing crops. As there is no substantive evidence before me to indicate that the applicant is the daughter of a farmer, her rural housing need can only be considered under category of RP 5-5(d) of the current County Development Plan, that is persons who have spent a substantial period of their lives living in the local rural area in which they propose to build a first home for their permanent occupation. In this regard I note that the applicant is not from the townland or the parish in which she proposes to build her first home, and that she did not attend a rural school. As such, the subject site is not within the applicant's local area as defined in the current County Development Plan and she does not comply with the criteria set out under category RP 5-5(e) either.

- 7.2.3. The foregoing aside, I note the applicant works as a teacher in the suburbs of Cork City, circa 44km from the subject site. I have serious reservations regarding the applicant's need to live in a rural area given the urban nature and location of her employment within the Cork Metropolitan Area. The proposed development would, in my view, constitute random rural development and would be contrary to Objective RP 5-2 of the County Development Plan to facilitate those with a general rural housing need to live in rural areas.
- 7.2.4. While the applicant argues that the property market in the immediate area of the site is distressed, the evidence provided in this respect relates to the townland of Ballinoroher and the Timoleague area only. The towns of Clonakilty and Bandon are both within a reasonable distance of the applicant's family home (circa 13km and 17km respectively) and Timoleague village. I note the Plan identifies Clonakilty as one of two key towns outside the Cork Metropolitan Area and states that Clonakilty has an active housing market with a total of 217 no. new houses having commenced construction between January 2016 and August 2020. The Plan states there are in the region of 300 units with outstanding planning permission on existing zoned lands north of Bandon town, some of which are under construction, and about 86 vacant units within the town. The applicant's housing need could reasonably be met within a nearby urban area identified in the core strategy of the County Development Plan for population growth.
- 7.2.5. Having regard to the foregoing, the proposed development, in the absence of any identified locally based need for a rural dwelling, would contribute to the

encroachment of random rural development in the area and would militate against the preservation of the rural environment and the provision of public services and infrastructure. I recommend that the Planning Authority's decision to refuse permission in this respect be upheld.

### **7.3. Visual Impact on the Landscape**

- 7.3.1. The applicant erected 4.7m high poles on the site to indicate the overall height of the gables of the proposed dwelling at the time of the planning application and undertook a photographic study from 11 no. viewpoints on the public road network surrounding the site. The photographic study indicates that the gable markers are not visible from most of the viewpoints (Viewpoints No. 3 to 11) and would only be visible from a relatively close range i.e., the Michael Collins Centre and the site entrance. It is difficult to ascertain from the submitted photographs whether the proposed development would be visible from the long-distance viewpoints examined, but I note the Planning Officer did not challenge the findings of the survey in this respect. The concerns raised by the Planning Officer related to the visual impact of the proposed dwelling on the skyline when travelling from the centre towards the site, and from what I consider to be short distance / close-range views.
- 7.3.2. In her appeal, the applicant points out that the proposed dwelling would not be visible from the designated scenic route to the south of the site, and that the subject site is not in a designated High Value area. The applicant does not consider the visual impact on close range views to be contrary to the County Development Plan objective to protect skylines and ridgelines from development.
- 7.3.3. I note that the site is situated in a 'Tourism and Diversification Rural Area' which is described in the County Development Plan as having a higher level of environmental sensitivity. I also note Objective GI 14-9 of the Plan seeks to protect skylines and ridgelines from development. Whilst the proposed development is unlikely to be visible, or appear unduly prominent, from long distance viewpoints, I share the Area Planner's concerns regarding the visual impact of the proposed dwelling on the landscape as viewed on approach from the southwest.
- 7.3.4. The subject site is located on elevated land on the western side of a hill that rises to 137m. This hill is one of three contiguous hills between Timoleague and Clonakilty, increasing in height from west to east. The skyline is generally uninterrupted by

buildings travelling along the public road from the Michael Collins Centre towards Timoleague, particularly on the upper slopes of the hill on which the subject is located, and the hill to the east, which are almost entirely free from development. At close range the proposed dwelling house would breach the skyline and, as such, would form a discordant and obtrusive feature on the landscape at this unspoilt location and would set an undesirable precedent for other such prominently located development in the vicinity. Accordingly, I recommend that planning permission also be refused in this respect.

#### **7.4. Road Safety**

- 7.5. The subject site is located on a narrow rural road which rises from west to east as it passes the subject site. There is a gradual bend in the road to the east of the site. The submitted site layout plan (Dwg. No. 1002) indicates a new vehicular entrance to the site set back 2.5m from the nearside road edge. The site layout plan states that 100m sightlines in both directions would be provided from a 2.4m setback from the road edge. This is not, however, demonstrated on the drawing, and it appears that an extensive amount of the roadside boundary would have to be removed to achieve adequate sightlines. I also note that the sightlines have been measured to the centre of the public road and not the nearside edge of the road as appropriate.
- 7.6. Whilst the Area Engineer acknowledged that existing hedging and tree planting along the road boundary may need to be removed, he states it would be possible to construct an entrance to the required standards and recommended a condition that sightlines of 80m at a point 3m back from the road edge be provided. I am not satisfied that this is the case, noting that sightlines of just circa 41m to the east and 21m to the west (as scaled from drawing) can be achieved to the nearside road edge within the boundary of the subject site. Having regard to the horizontal and vertical alignment of the public road to the east, I have concerns that the proposed development would endanger public safety by reason of a traffic hazard due to inadequate sight lines. Accordingly, I recommend that planning permission also be refused in this respect.
- 7.7. This is a new issue and, as such, the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out above, it may not be considered necessary to pursue the matter.

## 7.8. **Appropriate Assessment**

Having regard to the nature and small scale of the proposed development, which comprises a dwelling served by an on-site domestic wastewater treatment system and surface water soakaways, the distance to the nearest European sites, and in the absence of any hydrological or other connections to European sites, it is concluded that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site. Appropriate Assessment is not, therefore, required.

## 8.0 **Recommendation**

8.1. I recommend permission be **refused** for the reasons and considerations set out below.

## 9.0 **Reasons and Considerations**

1. Having regard to the location of the site within a 'Tourism and Rural Diversification Area' as identified in the Cork County Development Plan 2022, where housing is restricted to persons demonstrating local need based on their social and / or economic links to a particular local rural area, and the applicant's particular circumstances as set out in the documentation submitted with the application, it is considered that the applicant does not come within the scope of the housing need criteria as set out in Objective RP 5-5 of the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based 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 provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development is located within a 'Tourism and Rural Diversification Area' as identified in the current County Development Plan for the area, which is described as having a higher level of environmental and landscape sensitivity. Having regard to the unspoilt upland location of the

proposed development, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity. The proposed development would, therefore, be contrary to Objective GI 14-9 of the Cork County Development Plan 2022 to protect skylines and ridgelines from development, and the proper planning and sustainable development of the area.

3. Having regard to the horizontal and vertical alignment of the public road from which the site of the proposed dwelling is to be accessed, the information provided to the Board is insufficient to be satisfied that the proposed development would not endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a narrow road at a point where sightlines are restricted.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Eoin Kelliher  
Planning Inspector

10<sup>th</sup> August 2023