



An
Bord
Pleanála

Inspector's Report

ABP-314287-22

Development	Construction of dwelling
Location	Fahydorgan, Carrigtwohill, Co Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	224403
Applicant(s)	Aidan Cregan.
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Aidan Cregan
Observer(s)	David Keegan Claire Keegan
Date of Site Inspection	13 th of April 2023
Inspector	Adrian Ormsby

1.0 Site Location and Description

1.1. The site is located along a local road c. 2.5km north of Carrigtwohill and the N25 National Primary Road. The site is c. 14km east of Cork City. The local road is narrow in width. The site benefits from a mature roadside boundary hedgerow and is elevated from the road. The site appears to be in agricultural use and I note there are a number of one of dwellings in the general area. The site has a stated area of 1.36ha.

2.0 Proposed Development

2.1. The application comprises of permission for-

- A single storey dwelling, 140 sq.m, 4.5m high
- new vehicle entrance,
- sewerage treatment unit, and
- all associated site works.

2.2. The Planning Authority sought further information (FI) on the 19/04/22 in relation to-

- Local housing need
- Site location and removing potential for infill sites
- Landscaping
- Wastewater treatment and proximity to existing wells in the area
- Consent from ESB networks in relation to location of proposed well

2.3. The applicant responded to the request for further information (RFI) on the 14/06/22.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused the development on the 11/07/22 for one reason as follows-

1. *The subject site is located in a rural area within the Metropolitan Cork Greenbelt as designated in the Cork County Development Plan (2022). As set out in the County Development Plan, the Metropolitan Cork Greenbelt is the area under strongest urban pressure for rural housing. Therefore, applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need based on their social and / or economic links to a particular local rural area and must demonstrate that they comply with the categories of housing need set out in policy Objective RP 5-3. On the basis of the documentation submitted with the application and the subsequent response to further information, it is considered that the applicant has not demonstrated an exceptional rural generated housing need for a new dwelling in this particular local rural area. It is therefore considered that the development would materially contravene policy objective RP 5-3 of the Cork County Development Plan (2022), would set an undesirable precedent for other such development outside of the development boundary and would therefore be contrary to the proper planning and sustainable development of the area.*

4.0 Planning Authority Reports

4.1. Planning Reports

The reports of the Planning Officer (dated 19/04/22, 07/07/22 and the 08/07/22) generally reflects the decision of the Planning Authority.

4.2. Other Technical Reports

- Engineer Reports
 - 30/03/22- FI required showing wells within 100m.
 - 12/07/22- No objection
- Liaison Officer-
 - 07/07/22- No comment

4.3. Prescribed Bodies

- None on file

4.4. Third Party Observations

- Two submissions were received and are generally consistent with the observations to the Appeal set out in section 7.3 below.

5.0 Planning History

- This and adjoining sites to west and north-
 - 20/6746- 2 storey dwelling etc, **refused** to different applicant 09/02/21-
 - 1) Failed to demonstrate local need.
 - 2) Excessive density of development, demand for uneconomic provision of public services and community facilities etc. Conflict with CDP and Sustainable Rural Housing Guidelines
 - 20/5606- changes to permission **granted** under 19/5150 and 17/4037. Grant 14/10/2020
 - 19/5150- Construction of entrance and driveway to existing dwelling, changes to 17/4037 and provision of new farm entrance. **Grant** 09/08/19.
 - 17/4037- Extension and alterations to existing dwelling etc. **Grant** 06/06/2017
- Opposing Site-
 - 21/5849- **grant** of outline permission 28/09/21 for a dwelling etc
 - 21/5848- **grant** of outline permission 28/09/21 for a dwelling etc.

6.0 Policy Context

6.1. Cork County Development Plan 2022-2028

- It is noted the application was originally lodged at a time the previous County Development of 2014 was in effect. The current County Plan 2022-2028 has been in effect since 6th of June 2022.
- Volume 1, Chapter 5 is titled Rural and deals with such matters including houses in rural areas.
- The following Objective is relevant-

RP 5-3: County Metropolitan Cork Strategic Planning Area

Objective RP 5-3 should be read in conjunction with Chapter 14 Green Infrastructure and Recreation and the section relating to 'Prominent and Strategic Metropolitan Cork Greenbelt Areas' including Objective GI 14-16 and Figure 14-3.

The Metropolitan Cork Greenbelt is the area under strongest urban pressure for rural housing. Therefore, applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional 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, including 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, 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, 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. Landowners including their sons and daughters who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence for a minimum of seven years prior to the date of the planning application.*

In circumstances, where a family land holding is unsuitable for the construction of a house, consideration may be given to a nearby landholding where this would not conflict with Objective GI 8-1 and other policies and objectives in the Plan. In this context a 'nearby landholding' may be construed to mean adjoining landholdings but not normally more than 1.5km from the prospective applicant's family residence. Proposals exceeding the 1.5km distance may be considered in exceptional circumstances on a case-by-case basis.

The total number of houses within the Metropolitan Greenbelt, for which planning permission has been granted since 15th January 2015 on a family farm or any single landholding within the rural area, will not normally exceed two.

6.2. National Planning Framework (NPF)

- 6.2.1. National Planning Objective 19 of the NPF outlines-

"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"

6.3. Ministerial Guidelines

- 6.3.1. Sustainable Rural Housing Guidelines for Planning Authorities (2005) (SRHG)

- The appeal site is located in an area identified as under strong urban influence. In these areas the guidelines advise that the housing needs of the local rural community should be facilitated, but that urban generated housing demand should be met on zoned and serviced land within settlements (Appendix 3, Box 1).
- Section 3.2.3 deals with 'Rural Generated Housing' and 'Persons who are an intrinsic part of the rural community'. It states-
“Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include.....people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first home near their family place of residence.”

6.4. **Natural Heritage Designations**

- The site is located c. 3km north of the Great Island Channel SAC (001058)
- The site is located c. 3km north of the Cork Harbour SPA (004030)

7.0 **The Appeal**

7.1. **Grounds of Appeal**

A first party appeal has been received from the Applicant. The grounds of appeal can be summarised as follows-

- It was not possible to obtain copies of additional supporting data such as school reports and results, children's allowance pay slips, medical records as such documents are destroyed in line with GDPR. Such documents were shredded by the various bodies / government agencies.
- All other requested documents and supporting evidence was provided to support the request for further information.

- Legal advice was sought in this regard and such records are retained in compliance to GDPR legislation only.
- This is an exception housing need. The applicant has no residence or home and resides in rented living accommodation.
- The applicant has lived in Carrigtwohill town and Fahydorgan for most of his life. He feels, as a local he should be treated equally to those who have obtained planning locally in the last 7 years.
- The site provided by his father will provide an affordable home. He has never previously applied for a house.
- He has a need and qualifies under RP5-3.
- Rural living allowed him in the past a much better quality of level of personal health and wealth while living in house adjacent to the site.
- The site has potable water, electrical supply and a wwtp is proposed. Safe access to the roadway can be provided with no effect on traffic.
- The site is free and he is not in a position to finance a house and site.
- Property owned by family since 1990. He lived in area until 2001 and that property was sold by father due to detailed personal circumstances.
- He proposes to provide increased woodland habitat species etc.
- Two outline permissions granted opposing site with similar circumstances.

7.2. **Planning Authority Response**

The planning authority's response to the grounds of appeal can be summarised as follows:

- All relevant issues have been covered in the technical reports.

7.3. **Observations**

Two observations have been received from-

- David Keegan and Claire Keegan

Both observers have received grants of outline permission for houses opposing the site. Their comments can be summarised as follows-

- Visual impact of the development
- Risk of loss of light and overshadowing
- Concerns of pollution from proposed wastewater disposal
- The applicant has never resided in the area
- Increased traffic on the road

8.0 Assessment

8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file, including the observations received in relation to the Appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance.

8.1.2. I consider that the substantive issues in this appeal are as follows-

- Rural Housing Need
- Appropriate Assessment

8.2. Rural Housing Need

8.2.1. The Planning Authority have refused this application because they consider on the basis of the documentation submitted with the application and in response to a further information request the applicant has not demonstrated an exceptional rural generated housing need for a new dwelling in this particular local rural area.

8.2.2. The site is located in a rural area within the Metropolitan Cork Greenbelt as designated in the CDP. Objective RP-3 of the CDP details that the Metropolitan Cork Greenbelt is the area under strongest urban pressure for rural housing and applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need based on their social and / or economic links to a particular local rural area. In this regard, they must demonstrate that they

comply with one of the following categories of housing need which I summarise as follows-

- a) Farmers including sons and daughters.
- b) Persons taking over the ownership and running of a farm on a full-time basis.
- c) Other persons working full-time in farming, forestry, inland waterway, or marine related occupations in the local rural area where they work and
- d) Landowners including their sons and daughters who wish to build a first home for their permanent occupation on the landholding associated with their principal family residence for a minimum of seven years prior to the date of the planning application.

8.2.3. The planning application form indicates the applicant is the son of the landowner. A letter from the landowner consents to the application by his son. The Applicant's father's address as per the letter is detailed within Carrigtwohill.

8.2.4. The file before me includes a supplementary Application Form. The first CCC planners report suggests this was not submitted with the original application and was instead submitted as unsolicited information on the 07/04/2022. The Board may wish to consider how much weighting should be given to this information.

8.2.5. The form indicates the applicant-

- is not employed or engaged in farming,
- has lived at address in Carrigtwohill from 1982-1994 and 2001-2022. The latter address is the same as the applicant's fathers address for the letter of consent and
- has lived in the rural area where the site is situated for six years from 1995-2000.

8.2.6. The Applicant indicates in the form he intends to take over the ownership and running of a landholding/farm on a full-time basis. The entire holding is then indicated as 4.64 ha and the landholding was acquired in 1990. In question 3.2(a) the applicant clearly indicates he is not engaged in agriculture on a full time or part time basis. The answer to question 3.2b suggests a plan to grow organic vegetables, some suckler animals with an application for a herd number in process.

8.2.7. In section 5 the applicant details he has-

- never owned a residential property,
- never received planning permission for a house in a rural area and
- has never built in a rural area.

8.2.8. In terms of exceptional circumstances he details family circumstances of why a house and site had to be disposed of in the past. The Applicant then signed the form and provided details of a person who can verify the information given. It appears the applicant has detailed a peace commissioner in this regard. A map/drawing is attached and indicates the original home to the north of the site that was sold.

8.2.9. As part of a Request for Further Information the Applicant has also submitted-

- A letter from the applicant's father setting out the circumstances for why the original home had to be sold and how the applicant then lived with him,
- An email from the father's solicitor detailing the applicant did live at Fahydorgan in the 1990's,
- A letter from the DSP detailing Child Benefit for the Applicant was paid from October 1997- January 2001 to his father with the address at that time detailed as Fahydorgan.
- Land Registry and folio detailing the house to the north of the site is not in his ownership but the other landholding around this is.

8.2.10. The mapping submitted with the landholding information does not appear to align with the map/drawing submitted with supplementary application form.

8.2.11. Having considered the information submitted as RFI the Planning Authority acknowledged the provisions of the 2022 CDP were now live and the application would be assessed against Objective RP 5-3. They detailed that relevant criteria remained unchanged primarily a requirement to demonstrate a 7 year residency.

8.2.12. Objective RP 5.3 details the criteria which an applicant must comply to obtain planning permission in this area. Having considered the information provided with the application and appeal against the criteria of RP 5.3 I am satisfied the applicant is-

- a) not a farmer
- b) has not submitted any evidence to support taking over the ownership and running of a farm on a full-time basis with the proposed dwelling associated with the working and active management of said farm
- c) is not working full-time in farming, forestry, inland waterway, or marine related occupations, for a period of over seven years, in the local rural area

The only criteria the applicant could comply with is-

- d) as a son of the landowner.

However the applicant has failed to demonstrate that he is seeking to build a home on the landholding associated with their principal family residence for a minimum of seven years prior to the date of the planning application.

8.2.13. Based on the information on file it is clear to me that the Applicant's principal family home is within Carrigtwohill i.e. where he resided for periods of 12 years (1982-1994) and 21 years (2001-2022) as opposed to this rural area. Notwithstanding this, he has clearly failed to demonstrate he has even lived at Fahydorgan for seven years with the documentation on file only supporting a period from October 1997- January 2001.

8.2.14. This applicant has therefore failed to demonstrate his proposal constitutes an exceptional rural generated housing need based on his social and / or economic links to the local rural area via the criteria outlined in Objective RP 5-3 of the CDP. Furthermore the proposal is also considered contrary to the provisions of National Planning Objective 19 of the NPF which 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 having regard to the viability of smaller towns and rural settlements.

8.2.15. The proposed development should be **refused**.

8.3. **Appropriate Assessment**

8.3.1. Having regard to-

- the nature and scale of the development proposed in this rural area,

- the separation distances of the site to the nearest European sites- the Great Island Channel SAC (001058) and the Cork Harbour SPA (004030) both located approximately 3km to the south of the site,
- the absence of any apparent direct pathway between the appeal site and these European sites,
- the hydrological distance of indirect pathways to these European Sites via e.g. roadside drainage ditches, tributary streams etc where any likely pollutant in surface waters would be sufficiently diluted and or dispersed in any event

no Appropriate Assessment issues are considered to arise, and the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European site.

9.0 Recommendation

9.1. I recommend that permission be refused for the following reason-

10.0 Reasons and Considerations

Having regard to:

- The site's location in a rural area within the County Metropolitan Cork Greenbelt as designated in the Cork County Development Plan (2022-2028) an area which is under the strongest urban pressure for rural housing as detailed in Objective RP 5-3 of the Plan
- The absence of supporting documentary evidence on the file demonstrating a local housing need based on the Applicant's social and / or economic links to this particular rural area, in terms of compliance with the categories of housing need set out in Objective RP 5-3
- National Policy Objective 19 of the National Planning Framework (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 and

- 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

the Board is not satisfied on the basis of the information on the file that the applicant's proposal constitutes an exceptional rural generated housing need as required by Objective RP 5-3 of the County Development Plan, or comes within the scope of either economic or social housing need criteria as set out in the National Planning Framework or that he has demonstrated he is a person who is an intrinsic part of the rural community in accordance with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities.

The proposed development, in the absence of any identified locally based need for a house at this location, would contravene policy objective RP 5-3 of the Cork County Development Plan (2022), 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.

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.

Adrian Ormsby
Planning Inspector

31st May 2023