



An
Bord
Pleanála

Inspector's Report

ABP-315166-22

Development	Installation of replacement wastewater treatment system, construction of shed and associated works
Location	Caher, Kilcrohane, Bantry, Co. Cork
Planning Authority	West Cork County Council
Planning Authority Reg. Ref.	22406
Applicant(s)	Emer and Paraic Connelly
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant
Appellant(s)	Fiona Creaven and Michael O'Brien
Observer(s)	None
Date of Site Inspection	10 th March 2023
Inspector	Eoin Kelliher

1.0 Site Location and Description

- 1.1. The subject site is situated on Sheep's Head peninsula, circa 3.3km southwest of Kilcrohane Village, County Cork. The site is accessed from the main road to Sheep's Head via a local cul-de-sac road / bohereen and overlooks Dunmanus Bay.
- 1.2. The site comprises a traditional two-storey farmhouse dwelling and a portion (circa 0.2ha) of an adjoining agricultural field. The site has a stated area of 0.27ha. The existing dwelling on the site is in the process of being refurbished and extended to the rear. The roadside boundaries of the site are defined by a sod and drystone wall, post and wire fencing and a mix of gorse and whitethorn trees. The topography of the site falls towards the southwest and the south in the direction of Dunmanus Bay, which is circa 230m distant. There is a private well to the north of the dwelling. An overhead ESB power line traverses the site diagonally from north to south.
- 1.3. The appellant's property is located to the northwest of the site on the opposite side of the public road and comprises two dwellings within the same land holding, one of which is a guest house. There is a farmhouse and a cluster of farm sheds and outbuildings to the southwest of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the installation of a replacement wastewater treatment system and the construction of a garden/storage shed and associated site works.
- 2.2. The proposed wastewater treatment system comprises a septic tank and associated percolation area to the southeast of the existing dwelling. The proposed garden/storage shed would be located circa 15.5m to the north of the existing dwelling near the public road. The shed, as originally proposed, has a stated floor area of 38.25sq.m and would have an overall height of circa 4.6m. A dark green metal cladding finish is proposed externally.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 27th October 2022 Cork County Council granted permission subject to 12 no. conditions including the following:

Condition No. 2 requiring that a revised landscape plan shall be agreed with the Planning Authority prior to the commencement of development.

Condition No. 3 restricting the use of the proposed garage shed to domestic storage purposes ancillary to the main house only.

Conditions No. 10 & 11 regarding the design, construction and maintenance of the proposed wastewater treatment system and the decommissioning of the existing septic tank.

Condition No. 12 precluding the cutting or removal of trees, hedgerows and clearance of ground vegetation between 1st March and 31st August.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's initial report recommended seeking a landscape plan as per the recommendation of the County Ecologist.

The applicant submitted a landscape plan and unsolicited revised proposals for the proposed garden/storage shed by way of further information. The proposed shed was reorientated perpendicular to the public road, reduced to 3.5m in height, and a stone finish proposed externally.

The Planning Officer's subsequent report considered the further information acceptable save for the proposed use of a non-native hedge species, an issue she considered could be dealt with by way of a condition. The Planning Officer recommended that permission be granted subject to 12 no. conditions as reflected in the decision of the Planning Authority.

3.2.2. Other Technical Reports

Area Engineer: No objection subject to conditions.

County Ecologist: Initial report recommended seeking a landscape plan including a planting schedule, details of measures to be put in place to protect existing boundary hedgerow during the construction phase, and confirmation that the works would take place outside the bird nesting season. Adverse impacts on European sites (Sheep's Head SAC and Sheep's Head to Toe Head SPA) were deemed unlikely.

Subsequent report raised no objection subject to conditions including, *inter alia*, that a revised landscape plan replacing the fuchsia with a native species found in the area be submitted prior to the commencement of development.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A submission was made by Fiona Craven and Michael O'Brien. The main points raised are summarised as follows:

- The proposed new wastewater treatment system is supported as the existing system is located on their property and has overflowed in the past.
- The proposed garden/storage shed is supported in principle but concerns were raised regarding the impact of the height, scale and position of the shed on the landscape.

4.0 Planning History

4.1. Subject Site: None.

Adjacent site to the northwest:

P.A. Reg. Ref. 12/390: Permission granted for alterations and extensions to existing two-storey detached house and associated site works for Michael and Fiona O'Brien.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

5.2. The site is situated in a rural coastal area on land that is not explicitly zoned in the County Development Plan. The site is located within an area identified as a High Value Landscape. The main road to Sheep's Head is identified as a scenic route.

The following objectives of the Plan are of relevance.

- **Objective RP 5-23** regarding Servicing Single Houses (and ancillary development) in Rural Areas.
- **Objective HE 16-21** regarding the Design and Landscaping of New Buildings.
- **Objective GI 14-9** regarding protecting the visual and scenic amenities of the Landscape.
- **Objective GI 14-10** regarding minimising the visual and environmental impact of development on the landscape, particularly in areas designated as High Value Landscapes, in accordance with the Cork County Draft Landscape Strategy.
- **Objective GI 14-12** regarding preserving the character of General Views and Prospects.
- **Objective BE 15-2** regarding the protection of Natural Heritage Sites, Habitats and Species.

5.3. Natural Heritage Designations

The Sheep's Head SAC (Site Code 0102) lies circa 350m to the north of the site. The qualifying interests for this site include Northern Atlantic wet heaths with *Erica tetralix*, European dry heaths and *Geomalacus maculosus* (Kerry Slug). This site is also a pNHA.

The greenfield element of the site is located within the Sheep's Head to Toe Head SPA (Site Code 004156). The qualifying interests for this site are Peregrine (*Falco peregrinus*) and Chough (*Pyrrhocorax*).

6.0 The Appeal

6.1. Grounds of Appeal

This third-party appeal was received from Fiona Creaven and Michael O'Brien, the owners of the dwelling and guest house to the northwest of the site. The grounds of appeal are summarised as follows:

- The proposed development is contrary to the objectives of the County Development Plan in respect of the following:
 - Rural housing need,
 - Protection of natural, built and cultural features,
 - Protection of the landscape and general views and prospects,
 - Development on scenic routes,
 - Protected sites, habitats and species, and
 - Design and landscaping of new buildings.
- The planning application does not refer to the change of use of land from agriculture to residential.
- The applicants both live and work in Dublin and have no links to the area; the subject dwelling is to be used as a second home.

- The existing dwelling is currently being extended from a three to a five-bedroom house resulting in overdevelopment of the site. Planning permission has not been sought for the extension.
- The public road running alongside the property is part of the Caher Loop walk, one of the Sheep's Head waymarked trails; the proposed development would adversely impact on the scenic amenity of this area.
- The proposed shed, which would be located on the highest part of the site, would detract from sea views and the natural character of the area. The relocation of overhead ESB powerlines associated with the development would further impact the environment.
- The proposed shed and relocation of the overhead ESB powerlines would have an impact on the Sheep's Head to Toe Head SPA.
- The proposed shed would, due to its elevated location, be highly visible on the skyline; the shed would be less prominent and better integrated if it were located adjoining the farm buildings to the southwest of the site.

6.2. Applicant Response

Lannin Design Architecture and Planning responded to the appeal on behalf of the First Party. Their response is summarised as follows:

- The grounds of appeal relating to the rear extension to the existing dwelling should be excluded from consideration as the extension does not form part of the proposed development under consideration. The applicant has engaged in pre-planning consultation with Cork County Council in respect of same.
- The planning application did not refer to a change of use as the full extent of the site was registered as residential when purchased by the applicant and subject to the appropriate 1% Stamp Duty. A copy of the Land Registry Transfer document and Stamp Duty Payment Certificate have been submitted.
- The applicants are the owners of the dwelling and are entitled to carry out works to the dwelling in compliance with a planning permission regardless of their place of birth.

- Cork County Council's Area Planner, Area Engineer and Ecologist recommended that the revised proposals submitted be granted permission subject to conditions.
- The form, scale and external finishes of the proposed shed are in keeping with the local vernacular as set out in Cork County Council's Rural Design Guide.
- The proposed development cannot be considered skyline development, would not overshadow adjoining properties, and would not impact on the privacy of neighbouring properties.
- The relocation of electricity poles and lines to accommodate building works is carried out by ESB Networks regularly with minimum short-term and long-term impact on the environment.
- The proposed development would have a minimum impact on views of the sea and coastal landscape from the public road. The adjoining property owners do not have a right to views of the sea and the coastline.
- The applicants are seeking to rejuvenate an existing dwelling which was heading towards dereliction, engaged with professionals to ensure their proposal is compliant with planning guidelines and will have the minimum impact on the surrounding environment, and consulted with the appellants prior to submitting revised designs for the proposed shed.

6.3. Planning Authority Response

No further comments.

6.4. Observations

None.

7.0 **Assessment**

7.1. I consider the main issues to be addressed in the assessment of this appeal are as follows:

- Impacts on the Landscape
- Other Matters
- Appropriate Assessment

7.2. **Impacts on the Landscape**

7.2.1. I note the revised design proposal submitted by the applicant by way of further information and consider it to be more in keeping with the vernacular of the area than that originally proposed. Having inspected the site, I am also satisfied that the proposed structure would not, by virtue of its modest size and proximity to an existing cluster of buildings, have an adverse visual impact on the landscape or scenic routes. In this regard I note that the Caher Loop walk referred to in the grounds of appeal is not identified as a designated scenic route and that existing and proposed boundary planting would assimilate the proposed structure into the landscape. The proposed shed would, owing to its modest size, have a negligible visual impact on views from the main Sheep's Head road, which is an identified scenic route.

7.2.2. I do, however, agree with the County Ecologist that the proposed fuchsia hedge along the NW and SW boundaries should be omitted in lieu of native hedgerow species, as per Objective HE 16-21(d) of the County Development Plan regarding the use of predominantly indigenous/local species for screening new developments. This matter could be dealt with by way of a condition.

7.3. **Other Matters**

7.3.1. I concur with the applicant's agent that the extension to the rear of the existing dwelling currently under construction does not fall within the scope of this appeal. Any planning enforcement issues arising in respect of same are a matter for the Planning Authority.

- 7.3.2. There is no evidence before me to suggest the existing dwelling on the site was in a derelict or ruinous state or that the use of the structure as a dwelling had been abandoned prior to the commencement of renovation works. The County Development Plan does not require applicants proposing to upgrade an existing dwelling in a rural area to demonstrate a genuine rural housing need.
- 7.3.3. The extended curtilage of the existing dwelling would comprise a lawn and wildflower meadow and would contain the proposed domestic wastewater treatment system and an ancillary garden/storage shed. I am satisfied that a material change of use requiring planning permission would not arise and the proposed development has been adequately described in the public notices for the purposes of the application.

7.4. Appropriate Assessment

- 7.4.1. The Sheep's Head SAC (Site Code 0102) lies circa 350m to the north of the site. The qualifying interests for this site include Northern Atlantic wet heaths with *Erica tetralix*, European dry heaths and *Geomalacus maculosus* (Kerry Slug).
- 7.4.2. Having regard to the domestic nature and minor scale of the development, the distance to the SAC and the absence of known connections to the SAC, the proposed development is unlikely to have a significant effect individually or in combination with other plans or projects on the Sheep's Head SAC.
- 7.4.3. The greenfield element of the site is located within the Sheep's Head to Toe Head SPA (Site Code 004156). The site is a SPA under the E.U. Birds Directive, of special conservation interest for Chough and Peregrine. Both species primarily nest along cliffs with the nearest potential breeding site located circa 230m south of the site. The site synopsis states that studies have found Chough mainly forage within 300m inland of clifftops used for breeding and for this reason these areas have been included in the SPA.
- 7.4.4. The proposed development would result in a negligible reduction in foraging habitat for Chough and Peregrine during the construction and operational phases. Having regard to the domestic nature and minor scale of the development and the distance to the nearest breeding sites associated with both species, the proposed development is unlikely to have a significant effect individually or in combination with other plans or projects on the Sheep's Head to Toe Head SPA.

7.4.5. Accordingly, Appropriate Assessment is not required.

8.0 Recommendation

I recommend that the proposed development be GRANTED permission for the following reasons and considerations subject to the conditions below.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Cork County Development Plan 2022-2028, and the nature, design and location of the proposed development and the pattern of development in the vicinity, it is considered that the proposed development would not detract from the visual amenity or character of the landscape, would not be prejudicial to public health, or have an adverse impact on protected sites or species. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority, including the unsolicited revised proposals for the proposed garden / storage shed, on the 7th day of October 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. Reason: In the interest of clarity.
2.	The proposed garden/storage shed shall be used solely for purposes incidental to the enjoyment of the dwelling house and shall not be used for any commercial purpose or for human habitation.

	Reason: In the interest of residential amenity and clarity.
3.	The site shall be landscaped, using only indigenous deciduous trees and hedging species found in the surrounding area, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.
4.	The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled “Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)” – Environmental Protection Agency, 2021. Reason: In the interest of public health.
5.	Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. Reason: To ensure adequate servicing of the development, and to prevent pollution.

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.

Eoin Kelliher
Planning Inspector

5th April 2023