



An
Bord
Pleanála

Inspector's Report

ABP-315898-23

Development	Retention of existing buildings, temporary retention of mobile home, and construction of house.
Location	Willowbrook, Greenmount, Ballydehob, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	22/721
Applicant(s)	Sara Williams
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Sara Williams
Observer(s)	None
Date of Site Inspection	29 September 2023
Inspector	Cáit Ryan

1.0 Site Location and Description

- 1.1. The subject site is located approximately 1.8km south of Ballydehob, and approximately 14km west of Skibbereen. It is a rural area, characterised by farmland, and by a relatively limited number of one-off houses. There are no other dwelling houses in the immediate vicinity accessed from this local road.
- 1.2. The roadside frontage of the site is heavily backplanted. Tall vehicular gates are in place at the recessed entrance, such that the site is largely screened from view from the public road. A stream flows through the western part of the site, from the southwestern corner northeastwards before re-aligning northwards to the northern boundary.
- 1.3. A mobile home is in place near the northern site boundary and is occupied. There is small garden shed between the mobile home and northern site boundary. A detached garage and a further small shed are located near the southern boundary. A large area of lawn is located in much of the eastern portion of the site. The site rises slightly in the south eastern corner of the site. Adjoining lands to the east and southeast are more elevated above the subject site. There is some rock outcrop on site, including either side of the avenue, near the south eastern corner and near the eastern end of the northern site boundary.

2.0 Proposed Development

- 2.1. Permission is sought for temporary retention of existing mobile home (40.7sqm) for a period of 2 years, retention of detached garage (49.4sqm) and 2 detached garden stores, and permission to construct dwelling and associated site works. The site area is 0.62ha. The floor area of the proposed single storey dwelling is 115.5sqm. External finishes to the dwelling are not indicated on the lodged drawings. The mobile home on site contains 2 no. bedrooms.
- 2.2. A secondary treatment system and soil polishing filter are proposed, as indicated in the submitted site suitability assessment. The site layout shows that an existing wastewater treatment system is to be decommissioned.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for 1 no. reason:

The proposed development for the temporary retention of an unauthorised residential unit and construction of a new dwelling house is located within a 'Tourism and Rural Diversification Area' as set out in the Cork County Development Plan 2022. The policy objectives (RP 5-2, RP 5-5) acknowledged local rural generated housing need, and facilitate applicants who meet the specific objectives of the rural settlement policy. On the basis of the information submitted the applicant has not substantiated a local housing need, or specific connection to this particular rural area, does not come within the scope of the local rural generated housing need criteria and would not constitute an exception to the restriction on new dwellings within the 'Tourism and Rural Diversification Area, as designated in the County Development Plan. The proposed development would contravene materially with the settlement policy (objective RP 5-5) contained in the Cork County Development Plan 2022 and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports – dated 26 January 2023

The basis for the planning authority's decision includes:

- **Area Planner's report** included noting that the site is not within a designated flood risk area, but flood risk areas to either side, unremarkable dwelling design, applicant does not satisfy rural housing need criteria, and current enforcement case relates to this site. Recommends refusal on grounds that applicant has not demonstrated local housing need, and proposal would materially contravene objectives of the County Development Plan and Sustainable Rural Housing Guidelines (2005).
- **Senior Executive Planner's report** concurs with Area Planner's recommendation to refuse permission, and sets out a similar refusal reason.

Refusal reason includes that the proposal does not constitute a rural housing need in accordance with Objective RP 5-5 of the Development Plan.

3.2.2. Other Technical Reports

Area Engineer's report dated 6 January 2023 includes:

- Noted sightlines should exceed 90m, and that sightlines to south are restricted to 70m. Recommends Further Information on this basis.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

One no. observation from Joseph O'Sullivan, Ballycummisk, Schull, Co. Cork, was received by the planning authority. The main issues raised can be summarised as applicant does not have housing need for dwelling house, mobile home erected without planning permission, proposal is contrary to County Development Plan 2014 and undesirable precedent in High Value Landscape.

4.0 Planning History

Subject Site

No relevant planning history.

Sites in the Vicinity

P.A. Ref. W/01/2390 and **ABP Ref. PL 04.126682**: Permission was refused in 2002 for retention of mobile home on a temporary basis and site layout on a site at Stouke, Ballydehob. This site is approximately 20m north of the current subject site. Three no. reasons are summarised as follows:

- Would seriously injure and detract from amenities of the area and adjoining Scenic Route A115, and would contribute to erosion of the unspoilt countryside.

- Would militate against the preservation of the rural environment and lead to demands for uneconomic provision of public services and community facilities.
- Would be prejudicial to public health because the method of sewage disposal is not acceptable.

P.A. Ref. 22/662: Permission was granted in 2023 for a dwelling, domestic garage and associated works at Greenmount, Ballydehob. This site is approximately 210m south east of the subject site, although it is slightly further distant at approximately 1.08km via local roads. This permission has not been implemented to date.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

The site is located within an area of West Cork designated as High Value Landscape.

The site is within Flood Zone C.

Sustainable Rural Housing

Objective RP 5-1: Urban Generated Housing Discourage urban-generated housing in rural areas, which should normally take place in the larger urban centres or the towns, villages and other settlements identified in the Settlement Network. Encourage the provision of a mix of house types in towns and villages to provide an alternative to individual housing in the open countryside.

Objective RP 5-2: Rural Generated Housing includes Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community.

Rural Area Type

In terms of rural settlement policy, the site is located within Tourism and Rural Diversification Area. The Development Plan states (Section 5.4.5) that these rural and coastal parts of the county exhibit characteristics such as evidence of

considerable pressure for rural housing, particularly for holiday and second home development. They are more distant from the major urban areas and associated pressure from urban generated housing, have higher housing vacancy rates and evidence of a relatively stable population compared to weaker parts of the county. They have higher levels of environmental and landscape sensitivity and a weaker economic structure with significant opportunities for tourism and rural diversification.

Objective RP 5-5: Tourism and Rural Diversification Area This rural area has experienced high housing construction rates and above average housing vacancy rates which has led to concerns that a higher demand for holiday and second homes is depriving genuine rural communities the opportunity to meet their own rural generated housing needs. Therefore, in order to make provision for the genuine rural generated housing needs of persons from the local community based on their social and / or economic links to a particular local rural area and to recognise the significant opportunities for tourism and rural diversification that exist in this rural area, it is an objective that 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.

With regard to the meaning of 'local rural area', the Development Plan states (at Section 5.4.10) that this 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.

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. Sustainable Rural Housing Guidelines for Planning Authorities

- 5.2.1. These guidelines differentiate between Urban Generated Housing and Rural Generated Housing and directs urban generated housing to towns and cities and lands zoned for such development. A number of rural area types are identified including Stronger Rural Areas, which are defined as those in which population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity tends to be relatively low and confined to certain areas.
- 5.2.2. Urban generated housing has been identified as development which is haphazard and piecemeal and gives rise to much greater public infrastructure costs. Examples of rural generated housing need outline 'persons who are an intrinsic part of the rural community' to include people who have lived most of their lives in rural areas and are building their first homes, and 'persons working full-time or part-time in rural areas'.

5.3. National Planning Framework

- 5.3.1. National Policy Objective 15 Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.
- 5.3.2. National Policy Objective 19 makes a distinction between areas under urban influence and elsewhere. It seeks to ensure that the provision of single housing in rural areas under urban influence on the basis of demonstrable economic and social housing need to live at the location, and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.4. Natural Heritage Designations

The subject site is not located within any designated site.

- The nearest part of Roaringwater Bay and Islands SAC (Site Code:000101) is approx. 1km to east.
- The nearest part of Sheep's Head to Toe Head SPA (Site Code 004156) is approx. 9.5km to south east.
- Roaringwater Bay and Islands pNHA (Site Code:000101) is approx. 1km to east.

5.5. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Applicant has a genuine local housing need, and has proof of residence in this area for over 17 years.
- Application should be given the same consideration as other sites on this landholding, and cites P.A. Ref. 22/662. Other nearby planning permissions are cited: P.A.Ref.15/00380, P.A. Ref. 19/00407 and P.A. Ref. 20/00156.
- Work carried out confirms enthusiasm for preservation and enhancement of the countryside and ecology.
- The site is unobtrusive. Technical requirements relating to safe entrance, waste water treatment system and rural style dwelling are satisfied.

- Applicant's daughter attended Schull school and manages a salon in Ballydehob.
- Applicant needs to be near her mother. Letter submitted from applicant's mother (Sarah Withers) states that she moved to West Cork 15 years ago to be near her daughter and grand-daughter.
- Applicant and her daughter live in the mobile home, due to family circumstances and recession, and applicant needed to sell her home.
- Applicant discovered that temporary planning required for the mobile home when she enquired with planning department about applying for a bungalow.
- Application was not treated in an unbiased manner.
- Enforcement notice was issued before applicant could secure DMCA.
- Third party does not know the applicant nor have knowledge of the site.
- European Commission Judgement infringement notice 2007 states that persons wishing to apply for planning permission for a house in designated rural area should fulfil a prior minimum residency requirement in the rural area in question, which in applicant's case is Ballydehob.

6.2. Planning Authority Response

The planning authority reiterates its recommendation to refuse permission based on policies in the County Development Plan 2022.

6.3. Observations

None.

7.0 Assessment

7.1. I consider that the main issues arising from this appeal are as follows:

- Rural Settlement Policy
- Traffic Safety

- Appropriate Assessment

7.2. Rural Settlement Policy

- 7.2.1. The key issue in this appeal is considered to be whether the applicant has an economic or social need to live in this rural area that addresses the requirements of the planning authority. The site is located within a Tourism and Rural Diversification Area, an area where there is considerable pressure for rural housing, particularly for holiday and second home development. Applicants must show a genuine rural generated housing need based on their social and/or economic links to the area, and must demonstrate that they comply with one of the categories listed (a) to (g) of Development Plan Objective RP 5-5.
- 7.2.2. The applicant is not a farmer, nor daughter of farmers, and is not taking over the ownership and running of a farm, and so categories (a) and (b) do not apply.
- 7.2.3. The applicant does not work full-time nor part-time in farming. The applicant outlines that she intends to keep hens on site, and any excess produce including fruit and vegetables will be used at Mosaic restaurant in Ballydehob, where the applicant works as a cook. Having regard to all documentation on file, and having inspected the site, I do not consider that the applicant would comply with category (c).
- 7.2.4. Category (d) relates to 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. The applicant states that she has lived in the Ballydehob area since March 2006, of which 14 years were spent at Ballybane East, just over 1 year in Ballydehob village centre, and 2 years at the subject site at Greenmount. The location of the applicant's previous residence at Ballybane East is not shown on map. Based on County Development Plan mapping, it is estimated that Ballybane East is approximately 6km north east of Ballydehob, whereas the subject site is approximately 1.8km south of the village. As '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, I note that no connection to the Greenmount area prior to the applicant residing at this location has

been set out in the application, nor is it set out as to whether the applicant's former address at Ballybane East is within the same parish as the subject site. The applicant states that her daughter attended secondary school in Schull. Schull is approximately 7km southeast of Ballydehob. However, it is considered that secondary school attendance at Schull does not come within the meaning of 'local rural school'. Based on the information on file, I consider that it has not been satisfactorily demonstrated that the applicant has been living in the local rural area in which the subject site is located for a period of over seven years.

- 7.2.5. Furthermore, the applicant indicates that she previously sold a property, the particular circumstances of which are detailed on file. Objective RP5-5 relates to applicants who wish to build a first home for their permanent occupation. Given that the applicant has previously sold a property, the proposed development could not be considered a first home. It has not been demonstrated therefore that the applicant complies with category (d) in this regard.
- 7.2.6. The applicant's predominant occupation is not farming/natural resource related, nor is it essential to the delivery of social and community services and intrinsically linked to a particular rural area, and as such categories (e) and (f) do not apply.
- 7.2.7. Category (g) relates to returning emigrants, and as the applicant is not originally from the local area, this category is not applicable in this case.
- 7.2.8. Having regard to the location of the proposed development, and all documentation on file, it is considered that the applicant has not demonstrated that she complies with any of the categories (a) to (g) of Objective RP 5-5 of the Development Plan. Refusal of permission is recommended on this basis.
- 7.2.9. In addition, the Sustainable 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 site is located within a 'Stronger Rural Area' as set out in the Guidelines. Having regard to all information on file, including the circumstances of the applicant, I consider that a social or economic need to reside at this location has not been demonstrated, and that the development

proposed to be retained and the proposed development would be contrary to the Guidelines. Refusal of permission is recommended on this basis.

- 7.2.10. In terms of detail, I note that the applicant's grounds of appeal cite other planning decisions in the vicinity of the site. Three of these relate to works/extensions to existing dwelling houses, and are therefore not considered relevant to the assessment of the subject appeal; P.A. Ref. 15/380, P.A. Ref. 19/407 and P.A. Ref. 20/156 refer.

7.3. Traffic Safety

- 7.3.1. The Area Engineer's report states sightlines for a local primary road should exceed 90m, that visibility is good to the north but is restricted to approximately 70m to south, and recommended Further Information be requested to improve sight distance.
- 7.3.2. On inspection I noted that sightlines to both north and south of the existing vehicular entrance are restricted, more particularly to the south. The achievement of 90m sight distances in both directions would require, at minimum, reducing the height of existing roadside boundaries comprising sod bank, backplanted with various plants and trees, and may require the setting back of roadside boundaries.
- 7.3.3. Although I have concerns regarding the adequacy of sightlines at the vehicular entrance, I do not recommend including it as a reason for refusal due to the substantive issue highlighted earlier in this report.

7.4. Appropriate Assessment

- 7.4.1. There is no record of the applicant having submitted a separate appropriate assessment screening report. I note that the planning authority screened out appropriate assessment.
- 7.4.2. The proposal comprises the temporary retention for 2 years of the existing mobile home on site, retention of garage and sheds and proposed construction of a new dwelling house. A secondary treatment system and soil polishing filter are proposed

in the lodged plans and particulars. The site layout indicates an existing wastewater treatment system is to be decommissioned.

7.4.3. The site is located approximately 1km east of Roaringwater Bay SAC. The qualifying interests of this SAC are:

- Large shallow inlets and bays [1160]
- Reefs [1170]
- Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
- European dry heaths [4030]
- Submerged or partially submerged sea caves [8330]
- *Phocoena phocoena* (Harbour Porpoise) [1351]
- *Lutra lutra* (Otter) [1355]
- *Halichoerus grypus* (Grey Seal) [1364]

7.4.4. While not indicated on plans and particulars submitted on the lodged application and appeal, it would appear that the stream which traverses the western part of the site connects to Ahboy river. This river enters Roaringwater Bay SAC. The proposed mounded soil polishing filter would be located 47m east of the stream.

7.4.5. This 47m separation distance exceeds the minimum 10m required in the EPA Code of Practice: Domestic Waste Water Treatment Systems (PE ≤10). The submitted Site Suitability Assessment states that the surface percolation result is 11.94, and that the water table was encountered at 0.95m. On site inspection I noted that a small area northwest of the proposed polishing filter was waterlogged. However, having regard to the separation distance to the stream, the proposed mounded soil polishing filter as part of the wastewater treatment system, the nature and scale of the development proposed to be retained and the proposed development and the proximity of the nearest European site, it is considered that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. It is recommended that permission be **refused** for the reasons set out below.

9.0 Reasons and Considerations

1. Having regard to the location of the site in a 'Tourism and Rural Diversification Area' where housing is restricted to persons demonstrating local need in accordance with the Cork County Development Plan 2022-2028, and within a Stronger Rural Area as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government (2005), 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 or Guidelines for a house at this location. The development proposed to be retained and the proposed development, in the absence of any identified locally based need for a dwelling house, would contribute to the encroachment of random rural development in the area and militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The development proposed to be retained and 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.

Cáit Ryan
Senior Planning Inspector

2 November 2023