



An  
Bord  
Pleanála

# Inspector's Report

## ABP-316097-23

---

<b>Development</b>	Construction of a house
<b>Location</b>	1 Cluain na Greine, Ballincroig, Whites Cross, Co. Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	2241666
<b>Applicant(s)</b>	Deirdre Holton and Tim Morley
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Deirdre Holton and Tim Morley
<b>Observer(s)</b>	None on file
<b>Date of Site Inspection</b>	17 <sup>th</sup> June 2023
<b>Inspector</b>	Sarah Moran

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	3
3.3. Prescribed Bodies .....	4
3.4. Third Party Observations .....	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. National Planning Policy .....	4
5.2. Cork City Development Plan 2022-2028 .....	6
6.0 The Appeal .....	9
6.2. Applicant Response .....	10
7.0 Assessment.....	11
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14

## 1.0 Site Location and Description

1.1. The site is within the grounds of an existing house, which is itself located on a cul-de-sac close to White's Cross, in the northern outskirts of Cork city. The cul-de-sac is accessed off the L2980 and is characterised by large, detached houses with a variety of architectural styles. There is a hedgerow along the site frontage to the L2980.

## 2.0 Proposed Development

2.1. The development comprises a 1.5 storey house, stated area 194.2 sq.m., with a new vehicular access from the existing cul-de-sac and to be served by a new wastewater treatment unit with a surface water connection to the public drainage system.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Cork City Council issued a notification of a decision to refuse permission on 23<sup>rd</sup> February 2023 for the following stated reason:

*The provisions of the Cork City Development Plan 2022-2028, specifically sections 3.53 and 3.54, set out criteria for the assessment of single houses in the City Hinterland. Having regard to the location of the site and the size of the landholding it is considered that the proposed development is contrary to these provisions and the protection of the City Hinterland. The proposed development would, therefore, contravene the Development Plan, which seeks to protect and improve rural amenity and provide for the development of agriculture, and would be contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

- Report of Assistant Planner dated 16<sup>th</sup> February 2023. Recommends refusal on grounds relating to non-compliance with rural housing policy. Comment of Senior

Executive Planner and comment of Senior Planner, both dated 21<sup>st</sup> February 2023 also recommend refusal.

### 3.2.2. Other Technical Reports

- CCC Environment Waste Management & Control Directorate comment dated 12<sup>th</sup> January 2023. No objection, recommends conditions.
- Area Engineer report dated 3<sup>rd</sup> February 2023. Recommends a further information request for details of sightlines at the vehicular access and details of connection to the public drainage system.
- CCC Drainage Division report dated 15<sup>th</sup> February 2023. Recommends further information request for surface water drainage details.

### 3.3. Prescribed Bodies

3.3.1. None on file.

### 3.4. Third Party Observations

3.4.1. None on file.

## 4.0 Planning History

4.1. None on file.

## 5.0 Policy Context

### 5.1. National Planning Policy

#### 5.1.1. Project Ireland 2040 - National Planning Framework (NPF)

NPF Section 5.3 refers to 'Planning for the Future Growth and Development of Rural Areas'. NPO 19 applies:

*Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

- *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;*
- *In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.*

#### 5.1.2. Section 28 Sustainable Rural Housing Guidelines 2005

The overarching aim of the Guidelines is to ensure that people who are part of a rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.

#### 5.1.3. **Circular Letter SP 5/08**

Circular SP5/08 Circular SP 5/08 was issued by the Department of Environment Heritage and Local Government on 30<sup>th</sup> September 2009. In relation to Local Need Criteria Policies and Practices it states:

*The overarching consideration for the local need assessment criteria in relation to residency, blood-line, local employment and agricultural activities must be that objectives and provisions in development plans and their application in the development management processes do not discriminate against planning applicants wishing to establish a full-time home-based business in an area in favour of those who are deemed to qualify as “locals”.*

## 5.2. Cork City Development Plan 2022-2028

- 5.2.1. The site is located outside of any settlement boundary, where the zoning objective ZO 20 City Hinterland applies 'To protect and improve rural amenity and provide for the development of agriculture'. The following detailed objective applies:

*ZO 20.1 The primary objective of this zone is to preserve the character of the City Hinterland generally for use as agriculture, rural amenity, open space, recreational uses, green and blue infrastructure and to protect and enhance biodiversity. Rural-related business activities which have a demonstrated need for a rural location are also permissible. Any development associated with such uses should not compromise the specific function and character of the City Hinterland in the particular area.*

*ZO 20.3 The City Hinterland helps to maintain a clear distinction between urban areas and the countryside and avoid the harmful impacts of urban sprawl.*

*ZO 20.4 Single housing in the City Hinterland will be facilitated only where the objectives and requirements on rural housing set out in Chapter 3 Delivering Homes and Communities are met. Housing must be based on exceptional rural housing need and on the core considerations of demonstrable economic or social need to live in a rural area. Other considerations including siting and design criteria are also relevant.*

- 5.2.2. Development plan section 3.51 notes that the City Hinterland is a largely rural area that comes under strong pressure for the construction of urban generated single rural dwellings. The Cork City Council will seek to accommodate urban generated rural housing within the Urban Towns and Hinterland Settlements of this area. The following policy objectives apply:

*3.53 National Policy Objective 19 requires that Planning Authorities must set out a rural housing policy that requires applicants to set out "demonstrable economic or social need to live in a rural area." Rural-generated one-off housing will be considered outside of the designated villages providing:*

- *The overall objective of maintaining the open character of the lands is maintained;*

- *The nearest village is more than 1 kilometre from the subject site on a farm / landholding;*
- *The farm is greater than 30 hectares in size;*
- *Proposals for new dwellings are supported by a demonstrable case to justify a genuine need to reside on the farm holding; and*
- *The proposed dwelling ideally utilizes the conservation / conversion of an agricultural built heritage asset (e.g. farmhouse, cottage or historic farm building of built heritage significance).*

*3.54 The Census 2016 illustrates that farm holdings of greater than 30 hectares are viable as full-time farms (i.e. they have an income of greater than €50,000). Farms of greater than 30 hectares generated 75% of all farm output in Ireland in 2016. Farm holdings with less than 30 hectares are considered to be part-time or “hobby” farms and wouldn’t derive a need to live on the farm holding. Less than 5% of farmers in Ireland are 35 years old, or younger (Census 2016).*

5.2.3. The following development management objectives also apply in relation to rural housing:

*Objective 3.13: Rural Generated Housing and paragraphs 3.51-3.54 provide the policy basis for rural generated housing in the Urban Hinterland. Part of the policy requirement is that development proposals for new dwellings are supported by a demonstrable case to justify a genuine need to reside on the land or farm holding, in order to meet one of the key tests for representing an exceptional rural generated housing need.*

*Objective 11.9 One-Off Housing: Demonstrable Need to Reside on Landholding With reference to Objective 3.13 – Rural Generated Housing, applicants shall satisfy the Planning Authority that their proposal represents a demonstrable need to reside on the land 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:*

- 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.*

*11.131 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 3.13 and other objectives in this Plan. In this context a 'nearby landholding' may be construed to mean adjoining landholdings but not normally more than 0.4 km from the prospective applicant's family residence. Proposals exceeding the 0.4 km 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 15<sup>th</sup> January 2015 on a family farm or any single landholding within the rural area, will not normally exceed two.*

*11.132 'Landholding' is to be interpreted as set out under paragraph 3.54, and 'landowners' is to be construed in this context.*

*11.133 Rural house design is important to maintaining the rural character of the City Hinterland. One-off housing in the urban hinterland has traditionally been urban generated and dwellings have been much larger than the housing need would dictate (e.g. +200 sqm average). Dwelling size should be limited to that required on the basis of need and therefore be limited to the applicant's household at the time of application. Dwellings should be designed to be extendable in phases as part of an architectural strategy to anticipate household size growth.*



11.134 *Any new rural housing development must be of a design, scale and layout that is respectful and sympathetic to traditional rural house designs and layouts. Suburban style dwelling house designs and large-scale developments that are not appropriate to a rural area in terms of character and layout should be discouraged.*

*Objective 11.10 Design and Landscaping of New Dwelling Houses in Rural Areas  
Where permitted, rural dwellings must adhere to the following:*

- a. New dwelling house design must respect the character, pattern and tradition of existing places, materials and built forms and must fit appropriately into the landscape;*
- b. Be energy efficient in their design, layout and siting;*
- c. Incorporate appropriate landscaping and screen planting by using predominantly indigenous species.*

### **5.3. Natural Heritage Designations**

- 5.3.1. There are no European designated sites on or within the immediate vicinity of the site. The nearest relevant designated sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058).

### **5.4. EIA Screening**

- 5.4.1. Having regard to the nature and scale the development which comprises a single house and poly-tunnels for agricultural use, in an un-serviced rural 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 at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. The main points made in the first party appeal may be summarised as follows:
  - The proposed development is a family home for the applicant.
  - The applicant has a local housing need, was born and reared in the local area and has lived in the area for their whole life. They have a need to reside close to

an elderly parent in need. The applicant is not a farmer and development plan housing policies relating to farming do not apply in this instance.

- The development follows a pattern in the area where larger historical family landholdings are subdivided to provide a development site for a sibling. It respects the scale and grain of surrounding development.
- The site is located in a suburban housing development, five minutes drive from Blackpool in Cork city and is not in a rural location. It will be served by a regular urban bus route from this year and has public drainage and water supply. The site is clearly within an existing built up area which is a continuation of Blackpool/Kilbarry.
- The 'city hinterland' zoning objective includes areas which are effectively urban and should be considered on a more nuanced basis.
- Cork City Council granted permission for an urban type apartment and mixed use development at the Hennesy Garage site nearby to the north.
- The City Council has supported large scale developments in areas immediately surrounding the subject site, whereby services are being added retrospectively.
- The development represents the efficient use of an infill site and is consistent with national planning policy such as DMURS. It will support national policy to densify existing areas as per the NPF.
- The development will not have adverse visual impacts on the surrounding area and as much as possible of the existing hedgerow at the site boundary will be retained. It will make a positive contribution to the area.
- The technical reports on file do not raise any serious issues in terms of roads or site services.

## **6.2. Applicant Response**

6.2.1. Not applicable.

## **6.3. Planning Authority Response**

6.3.1. None on file.

## 6.4. Observations

6.4.1. None on file.

## 6.5. Further Responses

6.5.1. None on file.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Consistency with Development Plan Rural Housing Policy
- Other Planning Issues
- Appropriate Assessment

The relevant issues may be considered separately as follows.

### 7.2. Consistency with Development Plan Rural Housing Policy

7.2.1. The site is located within the City Hinterland Area and subject to the ZO 20 City Hinterland zoning objective 'To protect and improve rural amenity and provide for the development of agriculture'. The detailed objective ZO 20.1 states that the primary objective of this zone is to preserve the character of the City Hinterland generally for use as agriculture, rural amenity, open space, recreational uses, green and blue infrastructure and to protect and enhance biodiversity. Related development plan objective ZO 20.3 states that the City Hinterland helps to maintain a clear distinction between urban areas and the countryside and avoid the harmful impacts of urban sprawl and objective ZO 20.4 states that single housing in the City Hinterland will be facilitated only where the objectives and requirements on rural housing set out in Chapter 3 Delivering Homes and Communities are met.

7.2.2. Development plan section 3.53 states that rural-generated one-off housing will be considered outside of designated settlements subject to specific criteria and related Objective 3.13: Rural Generated Housing requires that development proposals for new dwellings are supported by a demonstrable case to justify a genuine need to

reside on the land or farm holding. Development plan paragraph 3.53 states that rural-generated housing will be considered outside of designated villages providing:

- The overall objective of maintaining the open character of the lands is maintained;
- The nearest village is more than 1 kilometre from the subject site on a farm / landholding;
- The farm is greater than 30 hectares in size;
- Proposals for new dwellings are supported by a demonstrable case to justify a genuine need to reside on the farm holding; and
- The proposed dwelling ideally utilizes the conservation / conversion of an agricultural built heritage asset (e.g. farmhouse, cottage or historic farm building of built heritage significance).

Development plan section 3.54 provides a detailed definition of farm holdings, stating that holdings with less than 30 hectares are considered to be part-time or “hobby” farms and wouldn’t derive a need to live on the farm holding. Development plan Objective 11.9 One-Off Housing: Demonstrable Need to Reside on Landholding With reference to Objective 3.13 – Rural Generated Housing, states that applicants must demonstrate that they comply with one of the following categories of housing need:

- Farmers, including their sons and daughters who wish to build a first home for their permanent occupation on the family farm;
- 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;
- 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;
- 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.

- 7.2.3. The applicant submits that they are from the local area of the development site, grew up in the adjoining house and seek permission for the development in order to live close to an elderly parent. They are not a farmer and the site is not part of a farm landholding. I note that the applicant and their spouse do not work in occupations that relate to the local rural area. They therefore do not meet any of the above categories of rural housing need and the development is therefore not considered to comply with development plan objective ZO 20.4.

### **7.3. Other Planning Issues**

- 7.3.1. The stated area of the proposed house is below 194.2 sq.m. This is considered to be within the scope of development plan paragraph 11.133, which states that dwelling size in the City Hinterland should be limited to that required on the basis of need and therefore should be limited to the applicant's household at the time of application. I consider that the design and layout of the development are generally in accordance with the design guidance provided in development plan section 11.135, as set out above, and that the development is generally in accordance with Objective 11.10 Design and Landscaping of New Dwelling Houses in Rural Areas. I note in this regard that the planning reports on file do not raise any concerns in relation to potential adverse impacts on visual or residential amenities.
- 7.3.2. The site is located outside of any designated flood zone. The report of CCC Drainage Division recommends a further information request for full details of the surface water drainage system and the report of CCC Area Engineer recommends a further information request for details of sightlines at the proposed site access. Given that the reports do not raise any fundamental objections to the development, I consider that these matters could be addressed by condition, noting however that refusal is recommended above in relation to a fundamental policy issue.

### **7.4. Appropriate Assessment**

- 7.4.1. The nearest relevant designated sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). I note the un-serviced nature of this rural location which means that the site does not benefit from access to public mains drainage or water supply. I also acknowledge the prevalence of

agricultural activities and a number of one-off dwellings in the wider vicinity. Notwithstanding, having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site, I am satisfied that no appropriate assessment issues arise and that the proposed development would not be likely to have any significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

13.1 I recommend that the planning application be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

9.1. Having regard to

1. The location of the site within a rural area under urban influence, as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issues by the Department of the Environment, Heritage and Local Government in April 2005,
2. National Policy Objective 19 of the National Planning Framework (February, 2018) which, for rural areas under urban influence, 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,
3. The location of the site in an area subject to the ZO 20: City Hinterland zoning objective under the Cork City Development Plan 2022-2028, and to related development plan policies and objectives which seek to discourage urban generated housing in rural areas outside of designated settlements,

and having regard to the documentation submitted with the planning application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered therefore that the applicant does not come within the scope of the local need criteria as set out in the Cork City Development Plan 2022-2028 and, therefore, the proposed development does not comply with National Policy Objective 19. The proposed development would

contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would contravene the provisions of the National Planning Framework. 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.

---

Sarah Moran  
Senior Planning Inspector

18<sup>th</sup> June 2023