



An
Bord
Pleanála

Inspector's Report

ABP-316172-23

Development	Permission to erect a single-storey dwelling house, domestic garage, domestic vehicular entrance, treatment system and percolation area and all associated site works.
Location	Lehenaghmore, Togher, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2341724
Applicant(s)	Tony & Catherine McKeon
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Tony & Catherine McKeon
Observer(s)	Mary & Eugene Hickey DAA
Date of Site Inspection	11/12/2023
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located to the east of a narrow, partially surfaced country road that eventually leads to the Kinsale Road. The area is characterised by a significant number of detached dwellings on individual plots. To the immediate west of the site is Cork Airport.
- 1.2. The site is bound to the roadside by a low wall / ditch with hedgerow and an agricultural gate. The site was wet underfoot and somewhat overgrown on the date of the site visit. It is bound on all sides by one-off housing.

2.0 Proposed Development

- 2.1. On the 24th January 2023, planning permission was sought for the construction of a single storey dwelling of 207.98sq.m. with single storey garage on a site of 0.27ha that the applicants intend to purchase.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 20th March 2023, Cork City Council issued an Order advising of their intention to REFUSE to grant permission for the following reason:

- 1 The proposed development site is located within the city hinterland zoning, which is the area under the strongest urban generation pressure for rural housing. The applicant has not provided sufficient evidence of an exceptional, genuine and justifiable need for housing in an area designated has been under strong urban pressure, in compliance with the relevant rural housing policy and criteria set out in the Cork City Development Plan 2022 on the National Policy Objective 19 of the National Planning Framework (2018). It is considered that the applicant has not demonstrated an exceptional rural generated housing need that would come within the scope of housing needs set out in Objective 11.9 of the Cork City Development Plan 2022 with regard to the provision of sustainable rural housing and the proposed development would therefore be contrary to the proper planning and sustainable development on the area.

3.2. **Planning Authority Reports**

- 3.2.1. **Environment:** No objection subject to conditions.
- 3.2.2. **Drainage:** In relation to surface water and flood risk, no objection subject to conditions.
- 3.2.3. **Area Engineer:** Further information required re. sightlines
- 3.2.4. **Planning Report:** Applicants are buying site, have no family connections to the area. Site is not part of a farm and applicants will not be involved in agriculture. Objective 11.9 not complied with. No exceptional rural generated housing need demonstrated. Housing need can be met on zoned serviced lands. Proposed design is acceptable but notes request for further information re. sightlines. Recommendation to refuse permission.
- 3.2.5. **Senior Planner:** Concur with recommendation to refuse permission.

3.3. **Prescribed Bodies**

- 3.3.1. **Cork Airport:** Requests that should permission be granted a condition is attached requiring noise sensitive uses to be provided with noise insulation to an appropriate standard.
- 3.3.2. **IAA:** No observations
- 3.3.3. **Irish Water:** No objection.

3.4. **Third Party Observations**

- 3.4.1. **Eugene & Mary Hickey:** Objects to the proposed development on the grounds of flooding, topography, impact on road network
- 3.4.2. **Elaine O'Connor:** In unsolicited additional information, the owner of the site responded to this objection stating that there are no slurry tanks on the lands and no farming has been carried out for many decades.

4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref. **15/5255:** permission for a dwelling refused.

5.0 Policy Context

5.1. Cork City Development Plan 2022 -2028

- 5.1.1. The subject site is zoned “Objective 20 City Hinterland”, which has the stated objective to protect and improve rural amenity and provide for the development of agriculture. The primary objective of this area 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. **Section 3.51** states that the City Hinterland is a largely rural area that comes under strong pressure for the construction of urban generated single rural dwellings.
- 5.1.2. **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.
- 5.1.3. **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.
- 5.1.4. **Objective 3.13** Rural Generated Housing:
- a) To sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community (see Objective 11.9 – One-Off Housing: Demonstrable Need to Reside on Landholding);
 - b) To discourage urban generated housing in the City Hinterland;
 - c) The City Hinterland is the area under strongest urban generated pressure for rural housing. Therefore, single rural housing applicants must satisfy Cork City Council that their proposal constitutes an exceptional rural generated housing need and satisfies all the requirements of this Plan. Any application for the development of a single rural dwelling must set out a comprehensive and conclusive demonstrable economic or social need to live in a rural area.
- 5.1.5. **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:

- 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.

5.1.6. **Section 3.52** Cork City Council will seek to accommodate urban generated rural housing within the Urban Towns and Hinterland Settlements (Kerry Pike, Kileens and Upper Glanmire), which provide the necessary infrastructure and services to support housing.

5.1.7. **Section 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).

5.2. **Natural Heritage Designations**

- 5.2.1. The site is not located within or directly adjacent to any Natura 2000 sites. There is a designated site located approx. 4.2km to the north, Cork Harbour SPA (site code 004030).

5.3. **EIA**

- 5.3.1. Having regard to nature and scale of the development and the location of the site 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. An agent for the applicants has submitted an appeal against the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:
- Applicants lived in the area for 20no. years before they moved for financial reasons. This is the only available site in the area where their children have gone to school.
 - The applicants are immersed in the local area: sports, communities, schools.
 - One of the applicants works locally on a fulltime basis.
 - Housing is very difficult to get in this part of Cork.
 - The Board is requested to grant permission.

6.2. **Planning Authority Response**

- 6.2.1. None on file.

6.3. Observations

- 6.3.1. **DAA:** The Board request the Board to take into account the submission made to Cork City Council. Copy of submission attached, which requests that should permission be granted a condition is attached requiring noise sensitive uses to be provided with noise insulation to an appropriate standard.
- 6.3.2. **Eugene & Mary Hickey:** Fear of flooding from subject site due to historic slurry tanks on site and fall of land towards the observers home. Privacy concerns from overlooking. Poorly aligned road network with increase in traffic from airport, in this rural area.

7.0 Assessment

- 7.1.1. I have examined the file, considered all policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Rural Housing Policy
- Appropriate Assessment

7.2. Rural Housing Policy

- 7.2.1. The subject site is located in an area that is designated as being under strong pressure for the construction of urban generated single rural dwellings. The subject site is not located on a landholding – the applicants are seeking to purchase the site. Therefore Objective 11.9 demonstrable need to reside on a landholding does not apply.
- 7.2.2. Objective 3.13 of the development plan seeks to sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community. Those with an urban generated housing need, must satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need and satisfies all the requirements of this Plan. Any application for the development of a single rural dwelling must set out a comprehensive and conclusive demonstrable economic or social need to live in a rural area.

- 7.2.3. One of the applicants works in Cork City centre, the other works on various sites according to the information provided to the Planning Authority. The appeal states that one of the applicants works locally. That employment is not associated with the subject site or agriculture. Therefore the proposed development is urban generated. Section 3.52 of the development plan is clear, the Planning Authority will seek to accommodate urban generated rural housing within the Urban Towns and Hinterland Settlements (Kerry Pike, Kileens and Upper Glanmire), which provide the necessary infrastructure and services to support housing. As noted by the Planning Authority, the applicants housing needs can be met on serviced zoned lands.
- 7.2.4. The development plan rural housing policy is set out in Chapter 3. As noted above, it recognises the strong pressure for urban generated housing in the subject area and states that rural-generated one-off housing will be considered outside of the designated villages providing certain criteria are met. As noted by the Planning Authority, the applicant does not comply with the criteria, namely that the open character of the lands is not maintained, the subject site is just over 1km from the urban area, it is not connected to a farm of greater than 30ha, does not have a demonstrable case to justify a genuine need to reside on the farm holding (as the subject site is not on a farm holding) and does not utilise the conservation / conversion of an agricultural built heritage asset.
- 7.2.5. Given the objective of the development plan to locate new housing development on suitable zoned or designated land, it is considered the need for new one-off house in an unzoned, unserviced area must be robustly demonstrated. The applicants have not demonstrated an economic or social need to live in this rural area that is under strong urban pressure. I am satisfied that the applicant does not comply with section 3.52 or section 3.53 of the 2022 City Development Plan.

7.3. **Appropriate Assessment**

- 7.3.1. The subject site is located approximately 4.2 kilometres south-west of Cork Harbour SPA (Site Code. 004030). Having regard to the nature and scale of the proposed development within a serviced urban area and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would 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. I recommend permission be REFUSED for the following reasons:

1 Having regard to –

(i) Objective 3.13, Sections 3.51, 3.52 and 3.53 Housing in the City Hinterland of the Cork City Development Plan 2022-2028 that seeks to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with criteria under which it is the policy objective to facilitate rural housing in this rural area under strong urban pressure,

(ii) the pattern of development in the area which is considered to have the characteristics of rural areas under strong urban pressure, and significant degree of one-off rural housing

it is considered that the applicants have not sufficiently demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with policies and objectives of the Development Plan. 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 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.

Gillian Kane
Senior Planning Inspector

03 January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary			
Development Address			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes		
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion
No	N/A		No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____