



An  
Bord  
Pleanála

## Inspector's Report ABP-317513-23

<b>Development</b>	Construction of house serviced by septic tank and percolation area, and temporary retention of dwelling (a yurt) for a period of two years.
<b>Location</b>	The Brambles, Gortyowen, Glandore, Co Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	23/231
<b>Applicant(s)</b>	Patrick and Eleanor Quinn
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Patrick and Eleanor Quinn
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 September 2023
<b>Inspector</b>	Cáit Ryan



## **1.0 Site Location and Description**

- 1.1. The site is located in the townland of Gortowen, approx. 1.2km north east of Glandore Village and approx. 5km west of Rosscarbery. The site and surrounding area are located on elevated lands. This is a rural area which is characterised by agricultural land. The site is accessed via local road L-83271-0, a cul-de-sac road. An older farmhouse-style dwelling house is located directly north of the subject site, at the end of a laneway. South of the site's vehicular entrance, the south is bounded to the west by an existing dwelling house 'Alisha'.
- 1.2. The site area is given as 0.43ha. An existing yurt on site is used as a dwelling. There is a small island with mature trees in front of the entrance. The site has approx. 40m frontage to the laneway to the north of the existing vehicular entrance. The site slopes gradually from east to west.

## **2.0 Proposed Development**

- 2.1. Permission is sought to construct a dwelling house comprising 100sqm. It is generally of single storey appearance, and contains first floor level accommodation. The overall ridge height is 6.7m. The proposed dwelling would be served by a new septic tank and percolation area. A bored well is proposed.
- 2.2. Permission is also sought to retain an existing yurt for a temporary period of 2 years, which is used as a dwelling. The yurt is of circular form and has an overall height of 2.68m. It has a floor area of 28.2sqm.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse permission for 1 no. reason as follows:

The proposed development including the temporary permission proposal for an unauthorised residential yurt structure is located in a rural area identified as a 'Tourism and Rural Diversification Area' in the current Cork County Development Plan 2022 wherein it is the policy of the Planning Authority to restrict rural housing need to persons who can demonstrate a genuine rural generated housing need

based on their social and/or economic links to a particular rural area and to certain limited categories of applicants. Based on the information submitted with the application the Planning Authority is not satisfied that the applicant has demonstrated that they come within the scope of the housing need criteria for a dwelling at this location as set out in objective RP 5-5 of the Cork County Development Plan 2022. The proposed development would, therefore, contravene materially the provisions and objectives of the Cork County Development Plan 2022 with regard to the provision of sustainable rural housing 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

Basis for planning authority decision:

The **Area Planner's** report (14 June 2023) states

- The applicants would not qualify for exception to the settlement policy under RP 5-5 (Tourism and Rural Diversification Area), and it is difficult to justify the application on the basis of RP 5-10 (exceptional health circumstances) as there is no site specific housing need.

Report endorsed by Senior Executive Planner.

#### 3.2.2. Other Technical Reports

**Area Engineer** (11 June 2023) includes

- Recent Community Involvement Scheme enabled upgrade of the L83271-0
- No engineering issues. Recommends permission subject to 8 no. conditions.

### 3.3. Prescribed Bodies

None

### 3.4. Observations to the Planning Authority

None

## 4.0 Planning History

**P.A. Ref. 03/4477:** Permission was refused for a dwelling and garage for 3 no. reasons as the proposal would:

- seriously injure amenities of this coastal area, would materially conflict with coastal control policy and compliance with housing need criteria not shown.
- endanger public safety by reason of traffic hazard.
- result in undesirable density of development in a rural area where public water supply and sewerage facilities are not available.

**P.A Ref. 05/82:** Permission was refused for a dwelling house and garage for 2 no. reasons as the proposed development would:

- form an unduly prominent feature on the landscape having regard to visual prominence of the site, and in the absence of genuine local housing need would be contrary to the coastal control policy
- endanger public safety by reason of traffic hazard.

**P.A. Ref. W/94/0553:** Outline permission was granted for a dwelling of maximum 5.5m ridge height (as per planning history files outlined above).

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2022-2028

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

The site is located 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 (at 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.

**Objective RP 5-10: Exceptional Health Circumstances** Facilitate the housing needs of persons who are considered to have exceptional health circumstances that require them to live in a particular environment or close to family support in the rural area. The application for a rural dwelling must be supported by relevant documentation from a registered medical practitioner and a qualified representative of an organisation which represents or supports persons with a medical condition or a disability. This objective applies to all rural housing policy area types.

## **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. Circular Letter PL 2/2017, Department of Housing, Planning, Community and Local Government.**

The European Commission originally issued an infringement notice against Ireland in 2007 in relation to the “local needs criteria” in the 2005 Guidelines. This infringement notice was subsequently deferred pending the outcome of an infringement case taken against Belgium, now referred to as the Flemish Decree case and on which the European Court of Justice (ECJ) delivered its Judgement in 2013. In this Judgement, the ECJ ruled that the Flemish Decree constituted an unjustified restriction on fundamental freedoms under the Treaty on the Functioning of the European Union (the EU Treaty), in particular that it breached article 43 of the EU Treaty on the freedom of movement of citizens.

Further to the ECJ Judgement in the Flemish Decree case, the European Commission re-engaged with the Department regarding the 2007 infringement notice and its previously expressed concerns in relation to the “local needs criteria” in the 2005 Guidelines, particularly requirements incorporated in local authority development plans further to these criteria that persons wishing to apply for planning permission for a house in designated rural areas should fulfil a prior minimum residency requirement in the rural area in question or have familial ties to that specific rural area. Requirements that planning applicants have occupational or employment related ties to the rural area in question is not considered problematical in this context as such criteria are non-discriminatory between locals and non-locals.

Planning authorities were advised that the existing 2005 Guidelines remain in place and that pending the conclusion of the two national policy review processes (the Working Group deliberations and the publication of the NPF) and advised otherwise by the Department, they should defer amending their rural housing policy/ local housing need criteria in existing statutory development plans either by way of the

cyclical review or variation procedures. This was considered prudent in order to avoid planning authorities adopting different approaches on the matter in the interim.

## **5.5. Natural Heritage Designations**

The proposed development is not within any designated site.

- Myross Wood SAC (Site Code 001070) is approx. 2.6km to the west, on the western side of Glandore Harbour.
- Galley Head to Duneen Point SPA (Site Code 004190) is approx. 10.8km to south east.
- Cloonties Lough pNHA (Site Code 001044) is approx. 0.5km to north.

## **5.6. EIA Screening**

See Form 1 and Form 2. 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:

- Application satisfies Objective RP 5-10: Exceptional Health Circumstances. Medical caregivers to applicants' child are in agreement that the constant airflow type found in passive houses, at their site location, would be hugely beneficial for child's health.
- Applicants' child is already enrolled in Glandore N.S.

- Applicant fulfils requirement of RP 5-5 Tourism and Rural Diversification Area Objective regarding persons whose permanent employment is essential to the delivery of social and community service. Applicant works has worked in a local hotel for previous 4.5 years.
- Applicants' economic ties are solely to this location.
- RP 5-5 is an illegal objective and discriminatory as established under Libert and Others v. Flemish Government (the Flemish Decree case). It disregards many national and European rights and laws, including articles 43 and 56 of the European Community Treaty which guarantee freedom of establishment and free movement of capital.

## 6.2. Planning Authority Response

The planning authority has responded that it has no further comments.

## 6.3. Observations

None

## 7.0 Assessment

7.1. I have examined the application details and all other documentation on file. I have inspected the site and have had regard to relevant local and national policies and guidance. I consider that the substantive issues to be addressed in this assessment are as follows:

- Rural Settlement Policy
- Traffic Safety – New Issue
- Wastewater – New Issue
- Appropriate Assessment

## **7.2. Rural Settlement Policy**

7.2.1. The planning authority have refused permission for

- the proposed new dwelling house, septic tank and percolation area; and
- 2-year temporary retention permission of current dwelling, a yurt,

as the planning authority is not satisfied on the basis of the information submitted that the applicants have demonstrated that they come within the scope of the housing need criteria for a dwelling at this location at set out in Objective RP 5-5 of the Development Plan.

7.2.2. The key issue in this appeal is considered to be whether the applicants have 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 the Development Plan Objective RP 5-5.

7.2.3. The applicants are not farmers, nor sons/daughters of farmers, and are not taking over the ownership and running of a farm, and so categories (a) and (b) do not apply.

7.2.4. The applicants do not work full-time nor part-time in farming, and would therefore not comply with category (c).

7.2.5. 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 applicants indicate on the supplementary local housing need form lodged with the application that they have lived on site for 5 years, and in the grounds of appeal state that they have lived permanently in the area for over 6 years. As the applicants have not demonstrated that they have spent over seven years living in the local rural area, they would not comply with category (d).

- 7.2.6. The applicants' predominant occupation is not farming/natural resource related, and so category (e) does not apply.
- 7.2.7. The grounds of appeal include that one of the applicants has worked full-time in a local hotel for the previous 4.5 years, and thereby fulfils the requirement of persons whose permanent employment is essential to delivery of social and community services. I consider however that the type of employment, namely in a commercial hotel, does not come within the meaning of social and community services. In addition, I note that the stated hotel, Fernhill House Hotel and Gardens, is located at Clonakilty, approx. 18km north east of the site, and as such I consider that such employment is not intrinsically linked to a particular rural area. Accordingly, I consider that the applicants do not comply with category (f).
- 7.2.8. Category (g) relates to returning emigrants, and as the applicants have not indicated that they are originally from the local area, this category is not applicable in this case.
- 7.2.9. Having regard to the location of the proposed development, and all documentation on file, it is considered that the applicants have not demonstrated that they comply 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.
- 7.2.10. 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 applicants, I consider that a social or economic need to reside at this location has not been demonstrated, and that the proposed development and development proposed to be retained would be contrary to the Guidelines. Refusal of permission is recommended on this basis.
- 7.2.11. Objective RP 5-10 of the Development Plan seeks to facilitate the housing needs of persons who are considered to have exceptional health circumstances that require them to live in a particular environment or close to family support in the rural area. This objective applies to all rural housing policy areas including those identified under RP 5-5. Objective RP 5-10 requires relevant documentation from a registered

medical practitioner and a qualified representative of an organisation which represents or supports persons with a medical condition or a disability.

- 7.2.12. I note that this objective is consistent with the provisions of section 4.3 of the Sustainable Rural Housing Guidelines 2005 (SRHG) which states that planning authorities should recognise that exceptional health circumstances, supported by relevant documentation from a registered medical practitioner and a disability organisation, may require a person to live in a particular environment or close to family support.
- 7.2.13. The applicants make their case based on their child's diagnosed condition.
- 7.2.14. A letter from a consultant paediatrician including medical registration number from Cork University Hospital was lodged with the application. It includes that the family currently live in a yurt without connection to mains running water or mains electricity, and that children with cystic fibrosis need to be accommodated in appropriate housing to reduce their potential to acquire respiratory infections.
- 7.2.15. A letter from a CF Patient Advocate, on behalf of Cystic Fibrosis Ireland, was also lodged with the application. It includes that the applicants and their child currently reside in temporary accommodation, and that the site on which the applicants wish to build is in a coastal rural location with plenty of fresh air with natural high salinity that is beneficial to the child's health.
- 7.2.16. I note the content of all information on file, including the letters from a registered medical practitioner and a patient advocate from Cystic Fibrosis Ireland. However, I consider that it has not been demonstrated that the exceptional health circumstances outlined require the applicants to live in this particular rural location. For completeness, I note that the applicants do not indicate that the exceptional health circumstances require them to live close to family support in the rural area.
- 7.2.17. Having considered the above and having regard to all information on file, the applicants have failed to demonstrate that the proposed development constitutes a genuine rural generated housing need based on social and/or economic links to the particular rural area with regard to the criteria set out in Objective RP 5-5 and have failed to demonstrate that there are exceptional health circumstances that require them to live in the particular environment or close to family support in the rural area as outlined in Objective RP 5-10. The proposal is also considered contrary to the

SRHG which requires that planning authorities should recognise that exceptional health circumstances may require a person to live in a particular environment or close to family support. 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. Refusal of permission is recommended on this basis.

- 7.2.18. In terms of detail, the grounds of appeal also include that Objective RP 5-5 is illegal and discriminatory, as established under the 'Flemish Decree' case and with reference to *inter alia* article 43 of the European Community Treaty.
- 7.2.19. I note the content of Circular Letter PL 2/2017 which includes that further to the ECJ Judgement in the Flemish Decree case, the European Commission re-engaged with the Department regarding the 2007 infringement notice and concerns relating to "local needs criteria" in the Sustainable Rural Housing Guidelines for Planning Authorities 2005, particularly requirements incorporated in local authority development plans further to these criteria that persons wishing to apply for planning permission for a house in designated rural areas should fulfil a prior minimum residency requirement in the rural area in question or have familial ties to that specific rural area. It states also that requirements that applicants have occupational or employment related ties to the rural area in question is not considered problematical as such criteria are non-discriminatory between locals and non-locals. Planning authorities were advised that the existing Guidelines 2005 remain in place and that pending the conclusion of the two national policy review processes (the Working Group deliberations and the publication of the NPF) and advised otherwise by the Department, they should defer amending their rural housing policy/ local housing need criteria in existing statutory development plans either by way of the cyclical review or variation procedures.
- 7.2.20. Having regard to the matters outlined above including that the existing 2005 Guidelines remain in place, I consider that the subject case has been adequately and appropriately assessed with reference to Objective RP 5-5 of the Cork County Development Plan 2022-2028 and with reference to the Sustainable Rural Housing Guidelines for Planning Authorities 2005.

### **7.3. Traffic Safety- New Issue**

- 7.3.1. The existing vehicular entrance to the subject site comprises an agricultural gate. Directly forward (west) of the vehicular entrance is a stone wall of varying height, and which substantially exceeds 1.2m along most of its length. Based on the proposed site plan, this wall is estimated to extend approx. 8m forward of the site entrance. To the south west of this wall is the existing vehicular entrance to the neighbouring residential property 'Alisha'. The existing context of the site is not clearly indicated on the lodged plans and particulars, whereby the small island with mature trees forward (west) of the site is not shown.
- 7.3.2. It is noted that matters relating to traffic hazard did not form one of the reasons for refusal of the planning authority's decision. The Area Engineer's report raised no engineering issues, and states that the site has benefited from a recent Community Involvement Scheme (CIS) that enabled the L83271-0 to be upgraded.
- 7.3.3. There is a bend in the road approx. 40m to the west of the site's entrance. Having regard to the location and height of the stone wall forward of the site's vehicular entrance, I consider that the additional traffic turning movements generated by the proposed development, taken in conjunction with the proximity of the site entrance to the entrance serving the 'Alisha' dwelling house to the west, would endanger public safety by reason of traffic hazard.
- 7.3.4. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

### **7.4. Wastewater - New Issue**

- 7.4.1. It is proposed to serve the proposed dwelling by means of a septic tank and percolation area. The submitted Site Characterisation Form states the percolation value is 35.89 which, on the basis of percolation value, indicates suitability for the provision of a septic tank and percolation area in accordance with the EPA Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ). However, matters relating to the water table are further discussed below.
- 7.4.2. The proposed site plan shows that the percolation area would be located 36.02m north of the existing well serving the dwelling to the west of the site. Contour levels



shown on the proposed site plan indicate that the percolation area would be at a higher contour level to this existing well.

- 7.4.3. It is confirmed within the Site Characterisation Form that the site is located over a Poor aquifer with extreme vulnerability, which requires a groundwater protection response (GWPR) of R2<sup>1</sup>. This Form states that ground conditions were dry and firm underfoot, and also that relatively mature willow trees are growing in the area of the percolation area. I note that the CoP includes willow as being a vegetation indicator of poor percolation or high water table levels.
- 7.4.4. With regard to trial hole results, the documentation on file states that the depth of the trial hole was 2.1m and no rock was reached and no water ingress was observed after 24 hours. I note that the CoP states (at Section 5.4.2) that the trial hole should remain open for a minimum period of 48 hours to allow the water table, if present, to establish itself. Notwithstanding the trial hole result with regard to water ingress, as this result is stated to be based on a 24 hour period, rather than a 48 hour period, I would have concerns that the information on file is insufficient to adequately assess the water table.
- 7.4.5. As outlined previously, the Area Engineer's report raised no engineering issues. However, while I note the stated percolation value would be in compliance with the CoP, having regard however to the water table results being based on a 24 hour timeframe, and noting also the vegetation on site, I am not satisfied on the basis of the information on file that it has been adequately demonstrated that the subject site would be suitable to being serviced by means of a septic tank and percolation area.
- 7.4.6. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

## **7.5. Appropriate Assessment**

- 7.5.1. I have considered the proposed development and development proposed to be retained for a temporary 2-year period in light of the requirements S177U of the Planning and Development Act 2000, as amended.

- 7.5.2. The subject site is located approx. 2.6km east of Myross Wood SAC (Site Code 001070) and approx. 10.8km north west of Galley Head to Duneen Point SPA (Site CODE 004190).
- 7.5.3. The proposed development comprises construction of a dwelling house, to be serviced by septic tank and percolation area. Permission is also sought to retain a current dwelling, that is, a yurt, for a temporary period of 2 years.
- 7.5.4. No nature conservation concerns were raised in the planning appeal.
- 7.5.5. No streams/watercourses are identified on site.
- 7.5.6. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European site. The reason for this conclusion is as follows:
- The nature of the works proposed and proposed to be retained which are of small scale
  - The distance to the nearest European sites, and the absence of any hydrological or other pathways

I conclude on the basis of objective information, that the proposed development and development proposed to be retained would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000, as amended, is not required.

## **8.0 Recommendation**

- 8.1. It is recommended that permission be refused for the reason set out below.

## **9.0 Reasons and Considerations**

Having regard to the location of the site in a 'Tourism and Rural Diversification Area', designated in the Cork County Development Plan 2022-2028 as an area which is under considerable pressure for rural housing, as set out in Objective RP 5-5 of the Plan, to the lack of a demonstrable local housing need based on the applicants'

social and/or economic links to this particular rural area, in terms of compliance with the categories of housing need, as set out in Objective RP 5-5, to 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 to the location of the site within a rural area identified as being 'Stronger Rural Area' in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2005, the Board is not satisfied, on the basis of the information on file, that the applicants' proposal constitutes a genuine rural generated housing need as required by Objective RP 5-5 of the current 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 the applicants have demonstrated that they are persons who are an intrinsic part of the rural community in accordance with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities. It is considered that the proposed development, in the absence of any identified locally based need for a house at this location, would contravene Objective RP 5-5 of the Cork County Development Plan 2022-2028, 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 would undermine the settlement strategy, as set out in the Development Plan.

Furthermore, based on the information submitted with the application and the appeal, the Board is not satisfied that exceptional health circumstances requiring the applicants to live at the proposed site or close to family support have been demonstrated, as required by Objective 5-10 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.

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Cáit Ryan  
Senior Planning Inspector

20 May 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-317513-23		
<b>Proposed Development Summary</b>	Permission sought for house, septic tank and percolation area. Temporary 2-year retention permission sought for existing yurt.		
<b>Development Address</b>	The Brambles, Gortyowen, Glandore, Co. Cork.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>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?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class 10(b)(i) of Part 2 of Schedule 5. Threshold is 500 dwelling units.	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-317513-23	
<b>Proposed Development Summary</b>	Permission sought for house, septic tank and percolation area. Temporary 2-year retention permission sought for existing yurt.	
<b>Development Address</b>	The Brambles, Gortyowen, Glandore, Co. Cork.	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	<p>Single rural house with on-site septic tank and percolation area. Permission sought to retain existing yurt for 2 years.</p> <p>The nature of the proposed development and development proposed to be retained are not exceptional in context of the existing environment. There are existing dwelling houses in the vicinity.</p>	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>No significant waste, emissions or pollutants would ensue.</p>	No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>A single rural house with on-site septic tank and percolation area are proposed, and permission is sought to retain existing yurt for 2 years. Having regard to nature of proposed development and development proposed to be retained, size of subject development is not exceptional in this context.</p>	No
<p>Are there significant cumulative considerations having</p>	<p>There are no significant cumulative considerations having regard to other existing and/or permitted projects.</p>	No

