



An
Bord
Pleanála

Inspector's Report

ABP-318219-23

Development	Retention of single storey detached building for use as a wellness/gym/hobby room ancillary to family home and all associated site works.
Location	Inches, Eyeries, Beara, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	23/415
Applicant(s)	Carmel O'Sullivan
Type of Application	Retention Permission / Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Carmel O'Sullivan
Observer(s)	None
Date of Site Inspection	29 th May 2024
Inspector	Gary Farrelly

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.85 hectares and is located within the rural townland of Inches, which is located approximately 500 metres south of the village of Eyries, County Cork.
- 1.2. The site is bounded by the regional road R-571 to the south and west, by the local road L-8920 to the east and to the north by agricultural lands. The R-571 road is designated as a scenic route (S115) under the Cork County Development Plan 2022-2028. Additionally, the R-575 road is located approximately 150 metres southwest of the site which is also designated as a scenic route (S117).

2.0 Development

- 2.1. Permission is sought to retain a single storey detached building for use as a wellness, gym and hobby room. It is stated that the structure is ancillary to the family home. Permission is also sought for an outdoor seating area, landscaping and a new entrance off the L-8920.
- 2.2. The structure to be retained measures 42sqm and is built to a height of 3.41 metres. Surface water is to be discharged to a soak pit.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. Cork County Council (the planning authority) issued a notification to refuse to grant permission for the development in an Order dated 15th September 2023, for the following reason:

1. The development to be retained and the development proposed is sited within a rural area outside the village of Eyries, within an area of High Value Landscape, adjoining a scenic route along the R571 and is sited within a rural area that is identified as a Tourism and Rural Diversification Area, as set out in the Cork County Development Plan 2022 where there is high environmental and landscape sensitivity and where it is an objective of the Planning Authority to protect the visual and scenic amenities of the built and natural environment.

Having regard to the design, form, siting and use of the development to be retained and the development proposed, in an elevated and exposed position within an area of High Value Landscape and adjoining a scenic route, it is considered that the development to be retained and the additional development proposed would detract to an undue degree from the rural character, visual and scenic amenities of the area, would be an incongruous feature, would be contrary to the objectives GI 14-9, GI 14-12, GI14-13, GI 14-14 and GI 14-15 of the Cork County Development Plan 2022 and would constitute an undesirable precedent for development of this nature in a scenic , sensitive rural landscape designated as 'High Value Landscape' in the County Development Plan.

Furthermore, the Planning Authority considers that the development to be retained could not be considered as an ancillary structure, ancillary to the family home, by reason of its siting on an independent site removed from the family home on the opposite side of the public road and would be disorderly development.

The development to be retained and the development proposed would, therefore, be contrary to the proper planning and sustainable development of the area.

3.3. Planning Authority Reports

Planning Reports

- The Area Planner's report assessed the development in terms of the background to the application including the preplanning advice, the siting of the development and the visual impact of the development and recommended a refusal of permission. The Senior Executive Planner's report endorsed the area planner's recommendation.

Other Technical Reports

- Area Engineer's Report (dated 28/08/23) – This report questions why a full entrance with parking is required for a building which will be ancillary to the main residence.

- Liaison Officer Report (dated 14/09/23) – No comment to make.

3.4. Prescribed Bodies

None

3.5. Third Party Observations

None

4.0 Relevant Planning History

None on subject site, according to the local authority's planning register or from the documentation on file. Applications 01/2178 and 01/3379 referenced by the PA relate to sites to the southeast of the subject site.

5.0 Policy Context

5.1. Development Plan

Cork County Development Plan 2022-2028

Objective GI 14-9: Landscape

a) Protect the visual and scenic amenities of County Cork's built and natural environment.

Objective GI 14-12: General Views and Prospects

Preserve the character of all important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance (including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

Objective GI 14-13: Scenic Routes

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this Plan.

Objective GI 14-14: Development on Scenic Routes

a) Require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such areas, the appropriateness of the design, site layout, and landscaping of the proposed development must be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.

Objective GI 14-15: Development on the Approaches to Towns and Villages

Ensure that the approach roads to towns and villages are protected from inappropriate development, which would detract from the setting and historic character of these settlements.

HE 16-21: Design and Landscaping of New Buildings

a) Encourage new buildings that respect the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.

5.2. Natural Heritage Designations

The site is not located within any designated site. The nearest European Site to the subject site is the Kenmare River Special Area of Conservation (SAC) (Site Code 002158) which is located approximately 1km west of the site.

5.3. Environmental Impact Assessment (EIA)

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a preliminary examination or screening determination. Refer to Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was lodged to the Board on 12th October 2023 opposing the Planning Authority's (PA) decision. The grounds of appeal can be summarised as follows:

- Policies BE15-2, BE16-6, GI14-9, GI14-12, GI14-13, GI14-14, GI14-15 and HE16-21 are fully supported by the applicant. It is proposed to rewild the site to assimilate the building into the landscape. It is also proposed to enhance the elevations of the building and install soil mounding.
- Objective RP5-5 relates to construction of housing and does not apply in this instance. The building is not a residence and was never intended to be one and the applicant is not seeking permission for the retention of construction of a dwelling, rather the creation of a sheltered open floor space which will be ancillary to her home on the opposite side of the road. The applicant would accept a condition that prohibits the structure becoming a dwelling.
- Objective RP5-10 relates to housing needs and is not relevant. The applicant does have significant health issues and there is no doubt the retention and completion of this structure for use by her would certainly benefit her mental and physical health.
- Objective RP5-25 is fully supported but the application is not a housing application.
- Objective SC6-12 is fully supported and the space would bring about a big improvement in her quality of life and is a serious health matter for the applicant.
- Section 6.6.24 provision of ancillary accommodation, is fully supported but it is contended that it is not applicable. The space will only provide amenity space for her removed from her home but located very close to it.
- The existing entrance may be improved and the applicant would not object to the removal of it as it is not absolutely necessary to have full vehicular entrance and parking on the property.

- There will be no discharges to or extracts from groundwater. All roof water will be returned to the aquifer.
- The applicant is not trying to force the hand of the planning authority. It is accepted that the structure was constructed in spite of the PA not providing support for it under preplanning consultations and was an error of judgement by the applicant.
- The applicant has no plans to convert this to habitable accommodation.
- The removal of the building would be a retrograde step in terms of sustainability and carbon footprint, and therefore should be retained for some use.
- The floor area of the building is 40sqm and had it been constructed behind the dwelling the Board would not be considering the matter. The applicant should not be penalised because a minor county road bisects her landholding.

6.2. Planning Authority Response

The PA issued a response to the grounds of appeal on 26th October 2023. This can be summarised as follows:

- The inspector should peruse the entire contents of the pre-planning letter (PPW/19/967) that indicated no support for the development.
- The reason for the siting of the development on this elevated and exposed site, and not within the curtilage of her dwelling, is due to the views of Pallas Strand and the sea.
- The granting of this permission would lead to the complete disintegration of policy objectives of the development and would shake confidence in the planning system and would undermine national advice for planning enforcement.
- If permission is granted, there will be a plethora of applications that could benefit in the same way as the applicant.
- It is respectfully requested that the appeal is dismissed based on the principles of proper sustainable planning for the area.

7.0 Assessment

- 7.1. The Board should note that this application relates to the retention of a structure to be used as a wellness/gym/hobby room ancillary to the family home. The planning authority's planning report references a number of policy objectives and sections within the Cork County Development Plan 2022-2028 (CDP), such as Section 6.6.23, RP5-5, RP5-10, RP5-25 and SC6-12, that relate to dwelling accommodation, which I consider are not applicable to this application.
- 7.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the planning authority and having inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are the nature of the development and the impact of the development on the visual amenity of the area. The subject site is located within a rural area outside the settlement envelope of the village of Eyeries.

Nature of the development

- 7.3. I note that the Applicant has described the structure to be retained as ancillary to the family home. I note that as part of the reason for refusal the planning authority did not consider the structure as ancillary by reason of its siting on an independent site removed from the family home.
- 7.4. The Applicant's dwelling is located approximately 50 metres to the east of the structure on the opposite side of the public road. I note that this is a bungalow type dwelling with a curtilage boundary defined by a boundary wall along the public road with treelines and hedgerow around the remaining boundaries.
- 7.5. It is my view that an ancillary use is one which is subservient or subordinate to the dominant purpose of the site, i.e. the family home. Having regard to this, I consider that the development is independent and, therefore, cannot be considered ancillary to the family home, due to its physical location outside the curtilage of the family home, on an independent site which is served by its own access off the public road and associated driveway.

Visual Amenity

- 7.6. I note that the planning authority's primary reason for refusal was in relation to the location of the development on an elevated and exposed site within a High Value Landscape area in close proximity to a scenic route. I note the Applicant's grounds of appeal and to the comments regarding the modest size of the building at approximately 40sqm.

Scenic Routes

- 7.7. The site is located adjacent to the scenic route S115 of the regional road R-571 and approximately 50 metres to the northeast of the scenic route S117 of the regional road R-575, both designated under the CDP.
- 7.8. Having regard to Table 2.5.1 of the CDP, which outlines the description and general views being protected from the scenic routes, I note that routes S115 and S117 are designated to protect the views of Coulagh Bay and Islands and the Atlantic Ocean to the northwest of the site, the Slieve Miskish mountains to the south of the site and the Maulin Mountains a significant distance to the east of the site. Having inspected the site, I am satisfied that the subject site does not interfere with these views from the scenic routes, and accordingly, in my view the development to be retained does not contravene objectives GI 14-13 or GI 14-14 of the CDP.

General Views of the landscape

- 7.9. The subject site is located within the High Value Landscape (HVL) of the Rugged Ridge Peninsulas landscape character type under the CDP. I note that this is a very high sensitivity landscape and is of national importance.
- 7.10. I note that the subject site, prior to the development, represented an unspoiled field in which there were uninterrupted views of Coulagh Bay and the ocean from the local road L-8920 along the southeast/east of the site. Having inspected the site, I note that the development has been sited on an elevated part of the landholding and on the most exposed part of the landholding. As a result, the structure is visible from the R-575, graveyard and local road to the southwest of the site and on the approach to the village of Eyeries (when travelling from the R-575 to the junction with the R-571).
- 7.11. Notwithstanding the 3.4 metre height and 42sqm floor area of the structure, it is my view that the development detracts from the high value landscape, does not respect

the character of the rural area and negatively impacts the visual amenities of the area. Accordingly, I consider that the development contravenes objectives GI 14-9, GI 14-12, GI 14-15 and HE 16-12(a) of the Cork County Development Plan 2022-2028.

Other Issues

- 7.12. I note the Applicant states that to remove the building now would be a retrograde step in terms of sustainability and carbon footprint. The Board should note that the matter of enforcement falls under the jurisdiction of the Planning Authority.

8.0 Appropriate Assessment (AA) Screening

- 8.1. I have considered the project in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 1km east of the Kenmare River Special Area of Conservation (SAC) (Site Code 002158).
- 8.2. 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 absence of any wastewater discharges.
 - Having visited the site and having reviewed the Environmental Protection Agency's AA Mapping Tool, I note that there are no direct hydrological connections between the subject site and any designated site. The nearest watercourse (the Kealincha River) is located approximately 170 metres southwest of the site.
 - Having regard to the distance from the European Site regarding any other potential ecological pathways.
 - Having regard to the screening determination of the PA.
- 8.3. I conclude that on the basis of objective information, that the development to be retained and proposed development would not have likely had/would likely have a 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) is not required.

9.0 Recommendation

I recommend that permission is refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the siting and proposed use of the development to be retained and the proposed development on an elevated and exposed site within a high value landscape area, as designated under the Cork County Development Plan 2022-2028, and to its location on a separate landholding to the applicant's dwellinghouse, it is considered that the development would seriously injure the visual amenities of the area, would not respect the rural character of the area, fails to have an ancillary relationship with the applicant's dwellinghouse and would risk the establishment of an adverse precedent for such sited ancillary buildings at such a removal from the main dwellinghouse. Accordingly, it is considered that the development would be contrary to objectives GI14-9(a), GI 14-12, GI 14-15 and HE 16-21(a) of the Cork County Development Plan 2022-2028. The 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.

Gary Farrelly
Planning Inspector

11th June 2024

Appendix 1 - EIA Pre-Screening

An Bord Pleanála Case Reference	318219-23		
Proposed Development Summary	Retention of a single storey detached building for use as a wellness, gym and hobby room. Permission for an outdoor seating area, landscaping and entrance and associated works.		
Development Address	Inches, Eyeries, Beara, County Cork		
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	X
		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	X		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)
No	X		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	