



An
Bord
Pleanála

Inspector's Report

ABP-318289-23

Development	Construction of a dwelling house and all necessary ancillary site works.
Location	Sackville, Ardfert, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	23570
Applicant(s)	Joanna Walsh and Tony Barrett
Type of Application	Permission
Planning Authority Decision	Refused
Type of Appeal	First Party
Appellant(s)	Joanna Walsh and Tony Barrett
Observer(s)	None
Date of Site Inspection	20 th June 2024
Inspector	Ciara McGuinness

1.0 Site Location and Description

- 1.1. The site is located approximately 1km to the northeast of the centre of Ardfert village. The site is accessed by the L-2002 local road. Ardfert GAA club and Cemetery are located c.0.5km to the west of the site. A quarry development is located c.1km to the east of the site. The site is located to the east of the zone of notification for recorded monument KE020-045 listed as a ringfort. An existing vacant dwelling adjoins the site directly to the east.
- 1.2. The site is rectangular in shape and has a stated area of 0.23 hectares. A considerable amount of ribbon development lies along the length of this local road and there is a considerable amount of one-off housing in the overall area. The roadside boundary of the site is formed by an existing entrance, a stonewall and a number of mature trees.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a detached two-storey dwelling house. The proposed house has a stated floor area of 169sqm and a maximum ridge height of 6.050m. A new splayed entrance will be formed at the existing access gate to the lands. It is proposed to provide a wastewater treatment system to the north of the site. The proposed development would be served by a mains water supply.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a notification of a decision to refuse permission for the following single reason:

“The Planning Authority is not satisfied on the basis of submissions made in relation to the application, that a rural housing need has been demonstrated in accordance with Objective KCDP 5-15, of the Kerry County Development Plan 2022-2028 having regard to the location of the application site in an area designated as a Rural Area under Urban Influence. The proposed development would contravene KCDP 5-15 of

the County Development Plan 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

The first planner's report (dated 07/07/2023) noted the sites planning history and a previous refusal on the site in relation to traffic. The applicant was requested to submit Further Information demonstrating that the proposal will not be a traffic hazard. The applicant responded to the Further Information and submitted a 'Private Access Assessment Report' and Drawings. The second planner's report (dated 27/09/2023) noted that the response to the Further Information request was acceptable. It was noted that the applicants submitted letters outlining their medical history and need for a dwelling. However, it is considered that the applicants do not meet the Rural Settlement Policy as Ms Walsh is from Fenit and Mr Barrett is from Ballyroe. They will not be living beside family members as per Section (e) of Objective KCDP 5-15 of the Kerry Development Plan. A refusal of permission is recommended.

3.2.2. Other Technical Reports

Site Assessment Unit, Environment Department – Recommends conditions.

County Archaeologist – Sufficient distance between proposed development and recorded monument KE020-045. No mitigation required.

3.3. Prescribed Bodies

Irish Water – No objection. Connection agreement to be signed prior to the commencement of development

3.4. Third Party Observations

None.

4.0 Planning History

PA Reg Ref 06/3092 - Refused in October 2010 for the construction of a dwelling house, complete with waste water treatment system.

Refusal Reasons

1. Having regard to the existing and permitted development in the area, it is considered that the proposed development would extend and consolidate a linear form of development in this rural area and would constitute excessive density of development by virtue of its visual impact on the landscape and would seriously injure the amenities and depreciate the value of property in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would interfere with the character of the landscape, which is necessary to preserve, in accordance with objective ZL 11-1 of the Kerry County Development Plan 2003-2009. The proposed development, would, therefore, be contrary to the proper planning and development of the area.
3. Taken in conjunction with existing and permitted developments in the area, it is considered that the proposed development would result in an increase in vehicular movements to and from this heavily trafficked road, and would, therefore, endanger public safety by reason of traffic hazard.

PA Reg Ref 02/2872 – Refused in January 2003 for a private single storey dwelling.

Refusal Reasons

1. Taken in conjunction with existing and permitted development in the area, the proposed development would extend and consolidate that pattern of and set a precedent for undesirable ribbon development of an excessive density and of a suburban nature. The proposal would conflict with the reasonable objective of the Planning Authority contained in Section 6.3 and Section 10.2 of the current Kerry County Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would endanger public safety by reason of traffic hazard because the site adjoins a heavily trafficked public road and the traffic movements likely to be generated by the development would interfere with the safety and free-flow of traffic on his route. The proposed development would, therefore, be contrary to the proper planning and development of the area.

PA Reg Ref 02/1366– Refused in July 2002 for a private dwelling, garage, septic tank and associated site works. Refused by the Board under PL08.200395 following an appeal.

Refusal Reasons

1. Having regard to the existing and permitted development in the area, it is considered that the proposed development would extend and consolidate an existing undesirable pattern of suburban type sprawl and ribbon development in a rural area thereby contravening the provisions of the current Kerry County Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with existing and permitted development in the area, it is considered that the proposed development would result in an increase in vehicular movements to and from this heavily-trafficked road at a location where the general speed limit of 60mph applies and would, therefore, endanger public safety by reason of traffic hazard.

5.0 Policy Context

5.1. Kerry County Development Plan 2022-2028

- 5.1.1. Section 5.5 of the Kerry Development Plan deals with Rural Housing. It is stated that *‘It is the policy of the Council to ensure that future housing in rural areas complies with all National Policy documents including the National Planning Framework (NPO 15 & 19), the Sustainable Rural Housing Guidelines for Planning Authorities, 2005 (DoEHLG), RSES and Circular PL 2/2017.’*
- 5.1.2. The site is situated in a Rural Area under Urban Influence as identified on Map 5.1 of the Development Plan. The following objective applies to this area;

KCDP 5-15 In Rural Areas under Urban Influence applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need based on their social (including lifelong or life limiting) 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 or a favoured niece/nephew where a farmer has no family of their own who wish to build a first home for their permanent residence 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 residence, 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 the marine sector 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 residence.
- 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 residence.
- e) 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 and currently live with a lifelong or life limiting condition and can clearly demonstrate that the need to live adjacent to immediate family is both necessary and beneficial in their endeavours to live a full and confident life whilst managing such a condition and can further demonstrate that the requirement to live in such a location will facilitate a necessary process of advanced care planning by the applicants immediate family who reside in close proximity.

Preference shall be given to renovation/restoration/alteration/extension of existing dwellings on the landholding before consideration to the construction of a new house.

5.1.3. Other relevant policies include:

KCDP 5-4 Ensure that future housing in all rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG), circular PL2/2017, National Planning Framework (NPOs 15 & 19) and the Development Management Guidance of this Plan.

KCDP 5-5 Ensure the careful and sustainable management of the countryside / rural areas in order to adapt to and mitigate the effects of climate change.

KCDP 5-19 Ensure that the provision of rural housing will not affect the landscape, natural and built heritage, economic assets, and the environment of the county.

KCDP 5-20 Ensure that all permitted residential development in rural areas is for use as a primary permanent place of residence and subject to the inclusion of an Occupancy Clause for a period of 7 years.

KCDP 5-21 Ensure that all developments are in compliance with normal planning criteria and environmental protection considerations.

KCDP 5-22 Ensure that the design of housing in rural areas comply with the Building a house in Rural Kerry Design Guidelines 2009 or any update of the guidelines.

Volume 6 of the Kerry County Development Plan 2022-2028 contains development standards for residential development on rural and non-serviced sites, sections 1.5.10.1-1.5.10.10 relate.

5.2. National Planning Framework

5.2.1. **National Policy Objective 15** supports 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.

5.2.2. **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.

5.3. Sustainable Rural Housing Guidelines for Planning Authorities

- 5.3.1. 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. Urban generated housing has been identified as development which is haphazard and piecemeal and gives rise to much greater public infrastructure costs. Rural generated housing includes sons and daughters of families living in rural areas and having grown up in the area and perhaps seeking to build their first home near the family place of residence. Appendix 4 of the Sustainable Rural Housing Guidelines recommends against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts.

5.4. Natural Heritage Designations

Akeragh, Banna and Barrow Harbour SAC (Site Code 000332) – c.4.5km to the west of the site

Akeragh, Banna And Barrow Harbour pNHA (Site Code 000332) - c.4.5km to the west of the site

Tralee Bay Complex SPA (Site Code 004188) - c.4.5km to the west of the site

5.5. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows;

- The applicant's medical history is outlined in detail. The applicant's doctor is located in Ardfert and therefore it is necessary to live in the area.
- The applicants live, work and went to school in the local area. Annotated maps are provided to demonstrate this.
- The request for Further Information was satisfied only to be refused on a different issue.
- Housing options in the area are limited.

6.2. Planning Authority Response

The Planning Authority responded to the appeal confirming that the applicants do not meet the Rural Settlement Policy as Ms Walsh is from Fenit and Mr Barrett is from Ballyroe. They will not be living beside/adjacent to family members as per section (e) of Objective KCDP 5-15 of the Kerry County Development Plan 2022-2028.

6.3. Observations

None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issue in this appeal relates to the following;

- Rural Housing Need
- Ribbon Development
- Access and Traffic

7.2. Rural Housing Need

- 7.2.1. The different types of rural areas are identified on Map 5.1 of the Kerry Development Plan. While the mapping is not entirely conclusive, it appears as though the site is in a 'Rural Area Under Urban Influence'. The Planning Authority have also identified the site as being within a 'Rural Area Under Urban Influence'. The key challenge in these areas is to maintain a reasonable balance between development activity in smaller towns and villages and housing proposals in wider rural areas. Objective KCDP 5-15 of the Development Plan applies to these areas. In order to be considered for a house, the applicants must demonstrate that the proposal constitutes an exceptional rural generated housing need based on their social and/or economic links to a local area and in this regard satisfy one of the 5 no. categories of housing need set out in Objective KCDP 5-15.
- 7.2.2. The five categories (a-e) of rural housing need applicable to Rural Areas Under Urban Influence are outlined in Section 5.1 above. The documentation submitted with the application, including the 'Supplementary Information' form, and appeal does not specifically indicate which one of the five specific housing need categories the applicant proposes to demonstrate compliance with. The planner's report considers that the applicant does not meet the exceptional rural generated housing need test as *"....as Ms Walsh is from Fenit and Mr Barrett is from Ballyroe. They will not be living beside family members as per Section (e) of Objective KCDP 5-15"*. I note that the planner's report is limited in its assessment and does not make any reference to the categories of rural housing need other than category (e).
- 7.2.3. The applicants state that they are local to the area having lived there all their lives, gone to school locally and having been involved with sports clubs in the area. I note that Ms Walsh has a stated address in Fenit town, while Mr. Barrett has an address in Knockaclogher, Ballyroe. I acknowledge that the current 'Supplementary Form' and Development Plan do not require evidence of an applicant's link to the area in question. However, I note that the applicants have supplied letters from both their primary schools in Fenit (Ms Walsh) and Listellick (Mr Barrett), and their secondary schools, both of which are in Tralee, confirming their attendance. The applicant (Mr. Barrett) is stated to have a medical condition and there is documentary evidence on

file from the applicant's doctor located in Ardfert verifying that the applicant will benefit from living closer to the medical centre.

7.2.4. I agree with the Planning Authority that the applicants do not comply with Section (e) of Objective KCDP 5-15. However, on the basis of the information submitted in support of the application, it would appear that the applicant (Mr. Barrett) meets the criteria set out in Objective KCDP 5-15(d), that being 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 residence. I note that the Development Plan does not contain any definition or metrics for what can be considered as 'living in the local rural area'. Mr. Barrett lives within the rural area of Knockaclogher, Ballyroe, approximately 5km from the proposed development site. I consider this to be within a reasonable distance of the site so as to be considered as living within the local rural area. On the basis of the information provided, I consider that the applicant has provided evidence to substantiate their compliance with Objective KCDP 5-15 (d) sufficient to meet the test of 'exceptional rural generated housing need' for this Rural Area Under Urban Influence.

7.2.5. I consider that the policies and objectives as they relate to rural housing and need, have been set out in the Kerry County Development Plan 2022-2028, in the context of the NPF, RSES and the Sustainable Rural Housing Guidelines (2005). There has been no Ministerial Direction pursuant to Section 31 of the 2000 Act, with reference to rural housing policies and the Development Plan. I consider that the Board can assess the issue of rural housing and need as it is set out in the Development Plan without reference to the National Planning Framework and specifically NPO 19. Given, the forgoing I consider that the Development Plan is the primary document to reference when considering if an applicant qualifies with an actual and genuine need to build a new dwelling and live at a specific rural location.

7.2.6. I conclude that the applicant falls into a category provided for in Objective KCDP 5-15 of the Kerry Development Plan 2022-2028. Therefore, I conclude that the applicant meets the qualification criteria to build a rural dwelling at this location in accordance with the provisions of the Development Plan.

7.3. Ribbon Development – New Issue

- 7.3.1. Objective KCDP 5-4 of the Kerry County Development Plan seeks to ensure that future housing in all rural areas complies with the Sustainable Rural Housing Guidelines. Appendix 4 of the Sustainable Rural Housing Guidelines deals with ribbon development. Ribbon development is considered to occur when 5 or more houses exist on any one side of a given 250m of road frontage. I note that the Planner's Report does not specifically refer to the issue of ribbon development, however I note the planning history on file and the previous refusals which have cited the issue of ribbon developments in their reasons for refusal. In this regard, the serious concern regarding the density and concentration of development that exists along this stretch of road have previously been clearly set out by the Planning Authority and the Board.
- 7.3.2. During my site visit, I observed that there are 9 no. existing dwelling houses located to the southwest of the subject site, 4 of these dwellings are within 250m of the edge of the subject site. Accordingly, the proposed development would entail the addition of a fifth dwelling house and so it would represent ribbon development as defined by the Sustainable Rural Housing Guidelines. I note a further 2 no. houses are also located directly to the northeast of the site.
- 7.3.3. The proposed development is outside the village envelope of Ardfert. There has been no change in circumstances since the Board's previous decision on the site which would warrant a grant of permission. I can see no justification for extending the ribbon of development at this location. There is an excessive number of houses served by private wastewater treatment plants and increasing the high density of development would erode the rural character of the area. The proposal would also lead to increasing demands for facilities and services which would result in unsustainable patterns of development. I consider that the proposal should therefore be refused.

7.4. Access and Traffic

- 7.4.1. The proposed entrance is located off the local road to the southern site boundary. The local road is of reasonable width and of straight alignment as it passes the appeal site. I note there are sharp bends which slow traffic located approximately 200m to the east and 440m to the west.

- 7.4.2. A 'Private Access Assessment Report' and drawings were submitted by the applicant way of Further Information. The report outlines that that the required sight lines can be achieved in both directions. The walls on both sides of the entrance will be lowered to a maximum height of 900mm and vegetation on both sides will also be maintained. A report was received from the Roads Department which considered the Further Information to be acceptable and recommended a grant of permission.
- 7.4.3. I consider that the access proposals submitted by the applicant are acceptable. Given the pattern of development along the road I do not consider that the additional traffic generated by the proposed development would result in a traffic hazard. I do not consider that a refusal of permission on access or traffic hazard grounds would be merited.

8.0 AA Screening

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. There are no European Sites in the vicinity of the site. The closest sites are the Akeragh, Banna and Barrow Harbour SAC (Site Code 000332) and Tralee Bay Complex SPA (Site Code 004188) located approximately 4.5km to the west of the site.
- 8.1.3. The proposed development relates to the construction of a dwelling. A detailed description of the proposal is outlined in Section 2 of this report.
- 8.1.4. No nature conservation concerns were raised in the planning appeal.
- 8.1.5. 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:
- Nature of works e.g. the construction of a dwelling
 - Lack of connections to the nearest European site
 - Taking into account screening report/determination by the Planning Authority

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

8.2. 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 proposed development.

10.0 Reasons and Considerations

1. Having regard to the significant pressure for housing along the road the subject of the application and to the substantial amount of housing already existing in this area, which is not zoned for residential development, it is considered that the proposed development would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would, therefore, contravene the Sustainable Rural Housing Guidelines (2005), Objective KCDP 5-4 of the Development Plan and would 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.

Ciara McGuinness
Planning Inspector
30th July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Construction of a dwelling house and all necessary ancillary site works.		
Development Address	Sackville, Ardfert, Co. Kerry		
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		Class.....	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)
No		N/A	No EIAR or Preliminary Examination required
Yes	✓	Class 10(b)(i) Construction of more than 500 dwelling units - Sub Threshold	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	318289-23	
Proposed Development Summary	Construction of a dwelling house and all necessary ancillary site works.	
Development Address	Sackville, Ardfert, Co. Kerry	
<p>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.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The nature of the development is not exceptional in the context of the existing rural environment.</p> <p>The proposed development will not result in the productions of any significant waste, emissions or pollutants. Localised constructions impacts will be temporary.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative</p>	<p>The size of the development is not exceptional in the context of the existing rural environment.</p>	No

considerations having regard to other existing and/or permitted projects?	There is no real likelihood of significant cumulative effects having regard to existing or permitted projects	
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	The nearest European site is 4.5km to the west of the site. It is not considered that the proposed development would be likely to have a significant impact on the European site. The proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.	No
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required. ✓	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out.	There is a real likelihood of significant effects on the environment. EIAR required.

Inspector:

Date:

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)