



An
Bord
Pleanála

Inspector's Report

ABP-318437-23

Development	<i>Permission for construction of a new dwelling, site entrance and all associated site works including a wastewater treatment system</i>		
Location	<i>Ballynalougha, Nohoval. Co. Cork.</i>		
Planning Authority Ref.	<i>235041</i>		
Applicant(s)	<i>Patrick & Adri Van Niekerk</i>		
Type of Application	<i>Permission</i>	PA Decision	<i>Refuse Permission</i>
Type of Appeal	<i>First Party</i>	Appellant	<i>Patrick & Adri Van Niekerk</i>
Observer(s)	<i>None</i>		
Date of Site Inspection	<i>24/06/2024</i>	Inspector	<i>Andrew Hersey</i>

Context

1. Site Location/ and Description.

The site is located in a rural area circa 14km to the east of Kinsale. The site comprises of a greenfield development site with a public road forming the northern boundary and from there it slopes upwards by circa 13 metres.

There is a laneway to the east of the site which serves what appears to be an overground tank the use of which is not clear.

There is little tree cover and no hedgerow along the boundaries.

There is a ribbon of 4 dwellings to the east circa 125 metres from the site and 4 dwellings to the west circa 80 metres away both rows fronting onto the adjacent public road.

2. Description of development.

The proposed development comprises of permission to;

- Construction of a new single storey house with a ridge height of over 7 metres and a floorspace of 241sq.m.
- vehicular entrance off the R626
- Wastewater Treatment Plan
- And all associated site works

3. Planning History.

On Site

- Planning Reg. Ref 22/6493 in the name of the same applicants refused permission by Cork County Council for a dwelling refused permission on similar grounds

4. National/Regional/Local Planning Policy

The Cork County Development Plan 2022- 2028

- The Cork County Development Plan 2022- 2028 is the statutory plan in force at present
- The site is located in a *Rural Area Under Strong Urban Influence* in the Plan
- Objective RP 5-4 therefore applies as follows:

The rural areas of the Greater Cork Area (outside Metropolitan Cork) and the Town Greenbelt areas are under significant urban pressure for rural housing. Therefore, applicants must satisfy the Planning Authority that their proposal constitutes a genuine rural generated housing need 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, 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 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) 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) 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.

- Objective GI 14-9 Landscape:

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

b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability.

c) Ensure that new development meets high standards of siting and design.

d) Protect skylines and ridgelines from development.

- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

National Planning Framework 2040

- National Policy Objective 19 states that ‘In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements

Section 28 Guidelines – Sustainable Rural Housing Guidelines 2005

- ‘People who are part of the rural community should be facilitated by the planning system in all rural areas, including those under strong urban-based pressures’
- Section 4.3; 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.

5. Natural Heritage Designations

- The nearest designated site is the Cork Harbour SPA (Site Code 004030) which is located 6km to the northeast of the site

Development, Decision and Grounds of Appeal

6. PA Decision.

Permission was refused by Cork County Council for two reasons as follows:

1. *The proposed development is located in an area which has been subject to intense development pressure in recent years with ribbon development to the east and west of the proposed site. It is considered that the proposed development would exacerbate and consolidate a trend towards the creation of an excessive density of haphazard rural housing development and would exacerbate an emerging pattern of suburbanisation that is eroding the rural character in the vicinity. The proposed development would also lead to the creation of an infill site to the west and the expectation of permission on same. Furthermore, having regard to the nature of the proposed development, it is considered that the proposed development would lead to increased demands for the uneconomic provision of public services and facilities, where these are neither available nor proposed in the current Cork County Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area*
2. *Having regard to sloping topography of the site, the prominent position of the proposed development, the degree of cut and fill/groundworks together with the scale and height of the dwelling, it is considered that the proposed development would form a discordant feature on the landscape at this location, would encroach into the skyline and would fail to be adequately adsorbed and integrated into the landscape. The proposed development would militate against the preservation of the rural environment, would seriously injure the visual amenities of the area, would be contrary to policy objective GI 14-9 of the County Development Plan 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area*

7. Internal Reports

- Area Engineer (received 30th June 2023) – no objection

8. Prescribed Bodies

- None received

9. Submissions

There is one submission on file from a Michael and Sharon Looney (received 13th June 2023). The submission in summary states that:

- That Patrick and Adri have strong connections to the area and would make a positive contribution to the area
- That the proposed dwelling would blend into the area and does not have an excessive footprint
- In light of the extreme housing crises in the country every support must be given to applicants who can fulfil the qualifying criteria to build in their own local area.

10. Grounds of Appeal

A first party appeal was received by the applicants on the 10th November 2023. I note that the appeal is supported by a letter of support by Cllr Jack White (dated 8th November 2023). The appeal in summary states:

- That this is a well developed area that is serviced and capable of sustaining housing development reasonably without environmental threats associated with one off housing
- That the site will not contribute to ribbon development that there is not an over densification of development within the immediate environment above or beyond that being experienced on any other road in the overall area.
- That the site is located outside of an area designated as 'High Value Landscape'
- That the council are presumptive in assuming that an infill site created as a consequence of the proposed development will end up being developed.
- That the proposal would not lead to increased demands for public services in the area.
- That visual impact assessments carried out have been disregarded
- That the proposal does not breach the skyline

- That the proposal would not require any significant cut and fill. The dwelling was lowered on the site from that which was submitted previously.
- That the building would make no greater an impact upon the environment than that of the majority of buildings in the area. Photos of other houses in the area are shown in the appeal document and that the majority of the same break the skyline
- That the applicant is willing to lower the proposed dwelling to 79.5 metres
- The applicant refers to Planning Reg. Ref. 20/06679 and Planning Reg. Ref. 22/05050 both which were granted recently by the council and both which represented the 5th house in a row much like the proposed development site.
- That a dwelling with a floorspace almost twice that of the proposed development was granted permission to the west of Nohoval village under Planning Reg. Ref. 23/04511. This house also breaks the skyline when viewed from the local road as there is no backdrop to the same.

11. PA Response

A response from the PA was received on the 7th December 2023 and which states that it is the opinion of the Planning Authority that all the relevant issues have been covered in the technical reports already forwarded to the Board as part of the appeal documentation and has no further comment to make on this matter.

12. Observations

None received.

Environmental Screening

14. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity 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.

15. AA Screening

Having regard to the modest nature and scale of development and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. Introduction

2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.

2.1.2. I am satisfied the substantive issues arising from the grounds of this third party Appeal relate to the following matters-

- Rural Housing Policy
- Ribbon Development
- Visual Amenities

2.2. Rural Housing Policy

2.2.1. The proposed development is located in an area designated as a *Rural Area Under Strong Urban Influence* in the Plan and as such Objective RP 5-4 of the plan therefore applies which restricts the construction of single rural houses to certain categories of applicants as set out above under Section 4 above.

2.2.2. The applicant are seeking permission on the basis that they comply with category (d) i.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.

- 2.2.3. It is understood from the documentation submitted with the application that the applicants have rented houses in the local rural area since 2015 to the present which accumulates to over 8 years in total.
- 2.2.4. I note that both of the applicants work in Depuy Synthes being a medical device company located at Ringasdiddy, which is 22km to the north of the proposed development site.
- 2.2.5. The applicants did own a house in County Meath but sold it in 2022.
- 2.2.6. The applicants are not the landowners of the site. A letter of consent to apply for permission on the same has been submitted with the application.
- 2.2.7. The applicants three sons are enrolled in Scoil Naomh Fionan na Reanna which is located approximately 300 metres to the west of the proposed development site.
- 2.2.8. I note that there is a letter from an Auctioneer on file stating that the applicants have rented properties through them since January 2015. There is also a copy of a lease with respect to the premises they are renting.
- 2.2.9. It is further stated in a cover letter from the applicants that they have had to move 3 times in the last 5 years.
- 2.2.10. I refer to the previous application on the site, Planning Reg. Ref. 23/5041. Correspondence within the said file which shows that the applicants lived at three addresses over the last 8 years i.e. at Eircode P17 HD43, P17 E201, and P17 E440 all of which are located in proximity to the site. There are copies of the lease agreement on file with respect to these properties which the applicants rented.
- 2.2.11. I note that the case planner accepts that the applicants comply with objective RP 5-4 of the statutory plan serving the area. On the basis of the information submitted I also accept the same.
- 2.2.12. I further refer to policy as set out in the National Planning Framework under NPO19 which seeks that *'In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area'*

- 2.2.13. From the information submitted it would appear that the applicants have a social need to live in the area and therefore they would comply with NPO19

2.3. Ribbon Development

- 2.3.1. Ribbon Development' is defined in the Sustainable Rural Housing Guidelines 2005 as '5 or more houses exist on any one side of a given 250metres of road frontage'
- 2.3.2. I note that there is a gap of approximately 70 metres between the proposed development site and the adjacent house to the west of the site.
- 2.3.3. I note that there is a gap of 120 meters between the proposed development site and the house to the east of the site.
- 2.3.4. I note the case planners concerns that the proposed development would result in an Infill site being created to the west of the site if the proposed development were permitted. The planning report associated with the previous application on the site suggests that the applicants relocate the proposed dwelling to this site. The applicants states in submissions on this file that this is not possible and the site subject to this appeal is the only one available to them.
- 2.3.5. Having examined aerial photography associated with the site, the proposed development represents the 5th house within 370 metres of road frontage and therefore is not ribbon development as described in the rural housing guidelines.
- 2.3.6. Regard is also had to precedent, as set out in the applicants appeal where they refer to similar circumstances in which a 5th house was granted permission, Planning Reg. Ref. 20/06679 and Planning Reg. Ref. 22/05050 refers.
- 2.3.7. On the basis of the above I do not consider that the proposal represents ribbon development

2.4. Visual Amenities

- 2.4.1. The proposed house is a single storey house which has a stated ridge height of just over 7 metres. The house comprises of 2 elements comprising of two interconnecting A gable forms, a bedroom wing to the rear and a living wing to the front. The rear element appears to be perched up on a plinth which makes it circa

500mm higher as is evident on the section drawings. It is not clear why this is necessary as a single FFL figure of 80.50m is shown on the site layout drawings.

- 2.4.2. I note that the previous application for the house on the site which was refused under Planning Reg. Ref. 23/5041 included for a first floor was circa 200mm higher than the now proposed house.
- 2.4.3. It is not clear as to why a ridge height of 7.0 metres is required for a single storey house which could be accommodated within a ridge height of 5.0 metres.
- 2.4.4. I note that the applicants have proposed a lower FFL than that which was previously submitted under by circa 1.0 metres i.e. from 81.4m to 80.5m. I note that the appeal document submitted proposes a further reduction to 79.5m which is 2 metres lower than that initially proposed. Further drawings were not submitted with the appeal. However, this will result in a 2.5 metre cut into the site at the point of the rear elevation.
- 2.4.5. I note that the proposed house is located 25 metres back from the roadside.
- 2.4.6. The house to the west is located some 15 metres back from the roadside and the house to the east has a similar set back distance.
- 2.4.7. I note that a detached garage proposed under the previous application on the site has also been omitted in the current application subject of this appeal but the said garage could be constructed as an exempted development up to 25sq.m. in size to the rear of the house.
- 2.4.8. I note that Visual Impact Assessment has been submitted with the application and that from certain angles the proposed house will not break the skyline. These have been considered.
- 2.4.9. The case planner states in her report that the proposed development is located in an open landscape and that due to the distance from boundaries, the proposed dwelling appear will result in an incongruous feature in the landscape – the house is effectively dropped into the centre of a large field and will appear that way. This the case planners states is contrary to the Cork Rural House Design Guide.
- 2.4.10. The case planner is further concerned that the area is suffering from a high concentration of one off houses and that the proposed dwelling will consolidate a

trend towards the creation of an excessive density of one of houses in the area and eroding the rural character of the area.

2.4.11. I generally agree with the case planner with respect to the above. At present the site and the adjacent lands to the east and west forms a gap between two rows of ribbon development. Granting a house on this site will serve consolidate this ribboning and potentially will result in precedence being set for the further development of houses to the east and west in the infill sites

2.4.12. I further consider that the proposed house is large in scale though I appreciate that it is not as large as other existing and permitted developments in the area.

2.4.13. The proposed development will require significant cut and fill and I am of the opinion that the ridge height could be reduced significantly having regard to the single storey floorplan proposed and I consider that the house could have been moved at least 10 metres further towards the roadside to reflect the building line set by adjacent properties and to reduce the level of cut and fill required and also reducing its impact upon the receiving landscape.

2.4.14. While it is appreciated that the site is located outside of an area designated as 'High Value Landscape', on the basis of the above, I would consider that the proposal contravenes Objective GI 14-9 which seeks in part to:

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

c) Ensure that new development meets high standards of siting and design.

d) Protect skylines and ridgelines from development.

2.4.15. The proposed development by reason of

- the open nature of the landscape at this location
- the scale and height of the proposed dwelling
- the excessive cut and fill which will result as a consequence of the proposed FFL
- the excessive set back from the public road

contravenes Objective GI 14-9 of the Cork County Development Plan 2022-2028.

3.0 Recommendation

3.1. I recommend that permission for the development be refused permission for the following reason:

1. The proposed development by reason of;
 - the open and exposed nature of the landscape at this location
 - the scale and height of the proposed dwelling
 - the excessive cut and fill which will result as a consequence of the proposed FFL
 - the excessive set back from the public road
 - the cumulative visual impact that would result as a consequence of consolidating ribbon development at this location,

it is considered that the proposed development would form a discordant feature on the landscape at this location and would fail to be adequately absorbed and integrated into the landscape. The proposed development would militate against the preservation of the rural environment, would seriously injure the visual amenities of the area, would be contrary to policy objective GI 14-9 of the County Development Plan 2022-2028 and 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.

Andrew Hersey

Planning Inspector

6th August 2024