



An  
Bord  
Pleanála

## Inspector's Report ABP-318453-23

<b>Development</b>	Construction of detached part single storey/part two storey dwelling, wastewater treatment unit together with associated site works.		
<b>Location</b>	Ballyvergan West, Youghal, Co. Cork		
<b>Planning Authority Ref.</b>	234672		
<b>Applicant(s)</b>	Keith Phelan		
<b>Type of Application</b>	Permission	<b>PA Decision</b>	Grant
<b>Type of Appeal</b>	Third Party	<b>Appellant</b>	Paul Sanders Liam Fitzgerald Margaret and Bríd Flynn Dr Teresa A Twomey and Juri Hertel
<b>Observer(s)</b>	None		
<b>Date of Site Inspection</b>	28/05/2024	<b>Inspector</b>	Lorraine Dockery

**Site Location/ and Description.** The subject site, which has a stated area of 0.81 hectares, is triangular in shape, currently under grass and is well screened. It is located at the junction of L-7841 and L-7894, outside the identified town boundary

of Youghal, Co. Cork. The N25 route runs to the south of the site, parallel to the L-7841-51, at a lower level than the subject site.

**2. Proposed development.** Construction of a detached, part single storey/ part two storey dwelling, single storey car port and garage, waste water treatment unit together with associated site works. The stated floor area of the proposed dwelling is 537m<sup>2</sup>.

**3. PA's Decision** Grant permission, subject to 14 conditions. Further Information was requested by PA in relation to fully completed Form SF1, additional documentation to demonstrate compliance with CDP policy; landscaping and capacity of well.

#### **4. Planning History.**

None

#### **5.1. National/Regional/Local Planning Policy**

- Cork County Development Plan 2022-2028 applies, which has regard to national and regional policies in respect of rural development.
  - Volume 1, Chapter 5 Rural
  - Zoning: Greenbelt- located outside of defined development boundary
  - Objective RP 5-4- Rural Area under Strong Urban Influence and Town Greenbelts (GB 1-1)
  - Objective RP 5-10- Exceptional Health Circumstances
  - Located within Zone of Archaeological Potential- not within Zone of Notification
  - There are a number of Recorded Monuments in vicinity
- National Planning Framework- NPO 19
- Sustainable Rural Housing Guidelines for Planning Authorities (2005) (SRHG)- Section 4.3 deals with 'Assessing Housing Circumstances' including recognition of "exceptional health circumstances"

#### **5.2 Natural Heritage Designations**

- Site is located 3km from the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) and the Blackwater Estuary SPA (Site Code: 004028)

## **6. The Appeal**

### **6.1 Third Party Appeal. Grounds:**

- Contravention of local, regional and national planning policy in context of rural housing; greenbelt locations and satisfying local need; applicant does not meet criteria of Objective RP 5-10 (Exceptional Health Circumstances) in relation to requirement for them to live in a particular environment or close to family support in the rural area; inadequate justification put forward for this specific site or that applicant's requirements couldn't be satisfied by another site more suitable for development; no existing family support in area; setting of dangerous precedent for permitting further development within greenbelt area
- Infringement of greenbelt; removal of hedgerow and creation of berm; impacts of fast-growing trees on amenity
- Proposal is a commercial enterprise employing a number of employees; queries long term viability of proposal
- Hard to conclude that there is no site available within development boundary of town; examples of other sites within settlement boundary given
- Size, scale, height and massing of proposal is out of character with surrounding context; overdevelopment of site; impacts on character and visual amenity of the area
- Impacts on residential amenity; disturbance from emergency vehicles during the night; impacts on views; impacts on daylight/sunlight; overshadowing; devaluation of property; lack of consultation
- Increased traffic movements; traffic safety hazard; scale of entrance; road unsuitable for emergency vehicles; requests relocation of entrance
- Impact on water supplies; underestimate of water usage; waste-water treatment; impacts of pool

### **6.2 P.A. Response**

- No further comment to make, all relevant issues have been covered in the technical reports.

### **6.3 First Party Response**

- Refutes grounds of appeal

- Letters/report detailing health circumstances submitted
- To be used solely as a family home; not envisaged that they will relocate from this dwelling in the future; designed to accommodate needs of a person with exceptional medical needs; seeks to maximise his quality of life in a quality care setting
- Considers proposal to be in compliance with section 4.3 of SRHG and Objective RP 5-10 of CDP- notes proximity to numerous services/facilities from site
- Site on periphery of settlement rather than town centre location more beneficial, together with ease of access to outdoor facilities
- Considers case for exceptional health circumstances have been met
- Proposal follows principals of Cork Rural Design Guidelines and will not negatively impact the surrounding sensitive landscape; adequate sightlines provided; entrance scale similar to others existing; does not result in increased hazard to neighbouring property owners or road users
- Proposal does not negatively impact on extensive hedgerow in locality
- Proposal will not negatively impact on 2 houses to N of site; no loss of light
- Justification for subject site/ analysis of alternative sites given- no other suitable sites in locality
- Proposed bored well will not negatively impact on supplies to existing dwellings; ample volume of water available.
- No nondomestic/medical wastewater emanating from the proposed dwelling
- Proposed dwelling integrates into landscape and will not result in negative impact
- Unlikely to have negative impact on value of neighbouring properties; each application to be considered on its own means

## **7. EIA Screening:**

See completed Form 1 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, therefore, is not required.

## **8. AA Screening:**

I have considered the proposal in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located 3km from the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) and the Blackwater Estuary SPA (Site Code: 004028).

The proposed development comprises the construction of a detached dwelling, single storey car port and garage, waste-water treatment unit and all associated site works.

No nature conservation concerns were raised in the planning appeal.

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. small scale and residential nature of the development
- Location-distance from nearest European site and lack of connections
- Taking into account screening report by the PA

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.

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 Assessment

- 9.1 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 local authority, further responses, having inspected the site and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal are as follows: (i) compliance with rural housing policy (ii) impacts on visual and residential amenity and (iii) other matters.

### Compliance with rural housing policy

- 9.2 The third-party appeal submissions received raise concerns regarding compliance with the County Development Plan in terms of zoning, provision for housing within Greenbelt area and the assertion that the applicant's circumstances are not exceptional in the context of the appropriate planning in a Greenbelt area and that there are alternative, more appropriate sites available within the Youghal settlement boundary. The applicants refute these claims and set out their case as to why this site meets the specific needs of the applicant's and states that there are not more suitable sites within built-up boundary of Youghal that currently meet the needs of the applicant.
- 9.3 In terms of compliance with rural housing policy, the site is located within a Town Greenbelt (GG 1-1) of Youghal. It is stated in the Plan that the Town Greenbelts define the visual setting around the main towns and have been established to prevent sprawl and control linear roadside development (section 5.4.4). Objective RP 5-4 of the CDP details that these areas are under significant urban pressure for rural housing. 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 must demonstrate that they comply with one of five categories of housing need. It is clear from the documentation submitted that the applicants do not make their application on the basis of compliance with Objective RP 5-4. This is stated in the documentation and instead, they are making their application based on compliance with Objective RP 5-10 of the CDP, which 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 5-4. It is noted that this objective is consistent with the provisions of section 4.3 of the Sustainable Rural Housing Guidelines 2005 (SRHG) which states- “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”. As part of the Further Information response to the planning authority, the applicants submitted a completed SF1 form, including supporting documentation from medical practitioners and disability organisation outlining the medical circumstances of the applicant and make their case based on the applicant’s diagnosed conditions. It is also set out in the documentation why the applicant’s existing home does not cater sufficiently for his needs. The first party response to the appeal also sets out why this particular site suits his needs – it is reasonably level; affords privacy and ease of access to outdoor facilities; ease of vehicular connectivity to hospital, family support structures and food/retail outlets in Youghal; increased safety; greater accessibility within house and improvement to quality of life.

- 9.4 I fully accept the information put forward by the applicant in terms of his health and personal circumstances and the need for a dwelling that is tailored to his needs and that of his family. However, I must assess the proposal from a planning perspective based on compliance with local and national policy. As stated above, Objective RP 5-10 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*. 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’ (my italics). In terms of compliance with Objective RP 5-10 of the CDP, I am under no doubt that the applicant has exceptional health circumstances- this has been adequately demonstrated in the submitted documentation. However, I question in this instance if, based on the information before me, whether those exceptional health circumstances require him to live in this particular environment. There is little in the documentation to adequately demonstrate to me that the applicant has a need to live at this specific location or

requires them to live in the particular environment of the application site and that his needs couldn't be provided for within the built-up settlement of Youghal or elsewhere on an appropriately zoned site. In terms of 'close to family support in the rural area', it appears from the documentation that the applicant does not have any close family support in the immediate locality, instead this family support is within the town of Youghal. I concur with the third-party appellants that the granting of permission for a dwelling within this Greenbelt area, on the basis of the information provided/circumstances of this current appeal, which is based almost solely on the exceptional health circumstances of the applicants with no specific need to live on this particular site and with no close family support in the immediate locality, would set a strong precedent for other similar cases on such sites. This would not be welcome.

9.5 In terms of policy objectives relating to development within Greenbelt areas, I note that there are many policies and objectives in the operative Plan relating to these and the protection of same. The Plan acknowledges that there is evidence of considerable pressure from the development of (urban generated) housing in the open countryside. I would have concern that the granting of permission in this instance would not be in compliance with these Objectives and the proposal would contribute to the incremental erosion of the greenbelt.

9.6 As such and given the location of the site within the Town Greenbelt, I am not satisfied that the proposed development complies with the objectives of the County Development Plan as they relate to rural housing, Objective 19 of the National Planning Framework and the guidance provided within the Sustainable Rural Housing Guidelines.

#### Impacts on visual and residential amenity

9.7 In terms of impacts on visual amenity, I note that the subject site is not located within a high value landscape or immediately proximate to a designated scenic route as identified in the operative County Development Plan. However, from an examination of the CDP mapping system, I note that there is a designated High Value Landscape immediately adjoining the subject site (and possibly inclusive of elements of the subject site), but that the proposed dwelling does not appear to be situated within this designated area. In addition, there is a designated Scenic Route along the N25



to the south of the site. These do not appear to have been referenced in the planning authority reports.

- 9.8 Objective GI 14-9: Landscape of the operative County Development Plan is considered relevant whereby the Plan seeks to protect the visual and scenic amenities of County Cork's built and natural environment, as well as protecting skylines and ridgelines from development. I consider that a well-designed, high quality architectural solution has been put forward in this instance. The site is currently very well screened and views of it from the public realm are quite limited. While the proposal seeks to remove some hedgerow to facilitate the proposed access/sightlines, this is being compensated with additional planting and provision of a berm along the northern roadside boundary. Landscaping details were submitted as part of the applicant's Further Information response to the planning authority. Given the design solution put forward, I consider that the proposed works would not be excessively overbearing, incongruous or dominant in this context. While I acknowledge that a building of considerable scale is proposed, I consider its scale, massing and height (7.49m) to be acceptable at this location (particularly given the existing/proposed screening) and any impacts of same would not be so great as to warrant a refusal of permission.
- 9.9 There is some contradiction in the third-party submissions received in that on the one hand, issue is being raised in terms of impacts on visual amenity with the removal of some existing planting to facilitate the proposed entrance/sightlines whilst on the other hand, issue is also being raised with the proposal for a 1m high berm along the roadside boundary with native compensatory planting to screen the proposed development, in that it would impact on the residential amenity of adjoining property owners in terms of overshadowing, loss of light and impacts on views. One is not entitled to a view. I consider that any impacts on the designated High Value Landscape or Scenic Routes in the vicinity would not be so great as to warrant a refusal of permission.
- 9.10 I consider that the proposal is in accordance with Development Plan policy for such works and could be accommodated on the site without undue visual impacts on the wider landscape.

- 9.11 In terms of impacts on residential amenity, I note the contents of the appeal submissions. I am cognisant of the relationship of the proposed development to neighbouring properties. The nearest neighbouring properties are located to the north of the subject site on the opposite side of the roadway. The planning authority state that the relatively low height (7.4m) of the proposal, its position to the south and the separation distance to neighbouring properties would mean that light would not be impacted by the proposal. I would concur with this assertion based on the height of the proposal, its orientation, existing/proposed planting and significant separation distances. Separation distances are considered appropriate, the proposed dwelling is setback in excess of 15m from the roadside boundary at its nearest point with the two-storey element setback approximately 30m from the roadside boundary at its nearest point. I consider any potential impacts to be reasonable. I do not consider the proposal to represent overdevelopment of the site.
- 9.12 Having examined the information before me, and noting the site orientation, levels and separation distances, I am satisfied that the proposed works would not unduly overbear, overlook or overshadow adjoining properties. I am also satisfied that any impacts on light from the proposed berm and planting would not be so great as to warrant a refusal of permission. If the Board were disposed towards a grant of permission and had issue with the proposed berm/planting, they could deal with this matter by means of condition. I consider that the potential impact on neighbouring residents is not significantly adverse and is mitigated insofar as is reasonable and practical. In addition, I consider that disturbance from emergency vehicles at night, an issue raised by third parties, would not be so great as to warrant a refusal of permission.

#### Other Matters

- 9.13 The matter of the proposal being used for commercial purposes has been raised in the third-party submissions. This is refuted by the first party and they have outlined the need for a dwelling of this size, given the specific uses required. I have no reason to doubt the reasoning/details provided by the first party and am satisfied in this regard.
- 9.14 I have no information before me to believe the proposal would lead to devaluation of property in the vicinity.

- 9.15 The proposed development is to be accessed via the local road network in the area. I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users. I have no information before me to believe that the road network in the vicinity of the site does not have capacity to accommodate the proposed development, given its nature and scale. The planning authority have not raised concerns in this regard.
- 9.16 In terms of site suitability and water services issues raised by third parties, I have no information before me to believe the proposal would be prejudicial to public health. The matter was addressed by the applicant at Further Information stage. A Site Suitability Assessment, prepared in accordance with EPA Code of Practice 2021 was submitted with the application and the details contained therein appear robust and acceptable. The Area Engineer had no objection to the proposal. I am satisfied that overall, if permitted, the development would be acceptable in terms of site suitability for the treatment and disposal of wastewater arising from the development.

#### Conclusion

- 9.17 Having regard to all of the above, I acknowledge that the applicant has demonstrated their exceptional health circumstances but consider that the proposed development is not in accordance with the provisions of the operative County Development Plan, in particular Objective RP-410 and the proposal is therefore not in accordance with the proper planning and sustainable development of the area.

## **10. Recommendation**

I recommend that permission for the development be REFUSED.

## **11. Reasons & Considerations**

1. The site of the proposed development is located within the Town Greenbelt of Youghal, an area which is under significant urban pressure for rural housing, as set out in Objective RP 5-4 of the operative Cork County Development Plan 2022-2028. Based on the information submitted with the application and the appeal, the Board is not satisfied that the proposal constitutes a genuine rural housing need based on their social and/or economic links to this particular area

and the applicant has not demonstrated compliance with any category of housing need, as per Objective RP 5-4 of the Plan. Furthermore, based on the information submitted with the application and the appeal, the Board is not satisfied that exceptional health circumstances requiring the applicant to live at the proposed site or close to family support in the rural area have been demonstrated, as required by Objective RP 5-10 of the operative Development Plan. The proposal, if permitted, would set an undesirable precedent for other similar developments in such areas. 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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Lorraine Dockery  
Senior Planning Inspector  
11<sup>th</sup> June 2024

**Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-318453-23		
<b>Proposed Development</b> <b>Summary</b>	Construction of detached part single storey/ part two storey dwelling wastewater treatment unit together with associated site works.		
<b>Development Address</b>	Ballyvergan West, Youghal, 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) or 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</b> (if relevant)
			<b>Conclusion</b>
<b>No</b>	x	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	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:** Lorraine Dockery**Date:** 11<sup>th</sup> June 2024