



An
Bord
Pleanála

Inspector's Report

ABP-319318-24

Development	The construction of dwelling house, installation of wastewater treatment system and associated site works
Location	Iskanafeelna, Glengarriff, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	23/752
Applicant(s)	Adam Harrington
Type of Application	Planning Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Adam Harrington
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 0.4 hectares and is located within the townland of Iskanafeelna, County Cork, which is located approximately 4km southeast of the village of Glengarriff.
- 1.2. Access to the site is via a private access track which progresses from the site for approximately 350 metres to the north where it meets a junction with a public road L-8980 (cul-de-sac road). This cul-de-sac public road is taken off the National Road N-71 a further approximately 750 metres north of the junction with the private access track. The N-71 at this junction is within a 80kph zone. There are c. 26 no. dwellings that take their access from the junction with the L-8980/N-71.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a dwellinghouse and for the installation of a wastewater treatment system and associated site works. The dwelling will be two storey to a ridge height of approximately 7.5 metres and the internal floor area will measure 169.36sqm. The proposed external finishes are not illustrated on the submitted drawings.
- 2.2. The septic tank and mounded percolation area will be located to the northeast of the proposed dwelling. A site suitability assessment was submitted with the application which recorded a subsurface percolation value of 23.39min/25mm. Water is to be sourced via a private well and surface water is proposed to be treated via an onsite soak pit.
- 2.3. As part of the submitted documentation, a map was provided illustrating 160 metre achievable sightlines to the southeast of the L-8980/N-71 junction and over 300 metres to the north.

3.0 Planning Authority Decision

3.1. Decision

Cork County Council (the planning authority) decided to refuse to grant permission by Order dated 21st December 2023, for the following reason:

Reason for Refusal

As stated in the Cork County Development Plan 2022-2028 it is the Council's stated policy, as defined by Objective TM 12-8 and 12-13 to improve efficiency and road safety and to restrict the generation of increased traffic from existing accesses onto national roads and to ensure that all vehicular access provides standards of visibility to ensure the safety of other road users, as well as having regard to developments affecting national roads as outlined in the DoECLG Spatial Planning and National Road Guidelines for Planning Authorities 2012. The proposed vehicular access via the longstanding track and L-8980-0 Road would meet the heavily trafficked N71 National Road and where the road junction is set on a sharp gradient, unsatisfactory in alignment and width and where the emerging sight visibility at the L-8980-0 and N71 National Road junction is restricted to the south east due to the alignment and road bend of the N71 National Road. The Planning Authority is therefore satisfied that the traffic likely to be generated by the proposed development would endanger public safety by reason of traffic hazard, as well as creating precedent implications to encourage other development using the exact or a similar local road network which is not sustainable or in the interests of road safety. The proposed development would therefore constitute a traffic hazard, materially contravene stated objectives as set down in the Cork County Development Plan 2022-2028 and National Road Guidance.

3.2. Planning Authority Reports

Planning Reports

The area planner's (AP) report assessed the application in terms of the planning history of the subject site and adjoining site, traffic safety, EIA preliminary examination and AA screening. The AP did not enter into a detailed examination of the applicant's rural housing need.

The Senior Executive Planner (SEP) endorsed the recommendation of the AP and went into a more detailed examination of the rural housing need. Whilst the SEP stated that the applicant would appear to come within the scope of one of the categories of housing need, it was noted that no evidence was submitted to clearly demonstrate the applicant's part time involvement in agriculture and no details of the extent of the holding, who is farming the land and the extent of the agricultural activities undertaken.

With regards to traffic safety, the SEP recommended refusal due to the sight distance deficiencies at the junction of the L-8980/N-71. The SEP also noted the Area Engineer's observations of wet conditions and visible rock and the requirement for a new trial hole to check groundwater levels.

Other Technical Reports

Area Engineer (report dated 20/02/24) – The AE recommended refusal of the application on traffic safety grounds. They noted that the recommended sight distance for a speed limit of 80kph on a national secondary road is 160 metres which is a minimum value. The AE considered that it might be more appropriate to use the next highest value of 215 metres. Due to 114 metre sight distance to the bend from the junction of the national road and continuous white line at the junction the AE considered that the location was deficient from a road safety point of view.

In relation to wastewater, the AE noted the ground was very wet with a lot of rock outcrops on the date of the site inspection and recommended a new trial hole to check groundwater levels.

3.3. Prescribed Bodies

Transport Infrastructure Ireland – They stated that they would rely on the planning authority to abide by official policy in relation to development affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), in particular, inter alia, ensure that traffic hazards for road users are not created and thereby maintaining the safety of the network of national roads.

3.4. Third Party Observations

None

4.0 Relevant Planning History

PA ref. 23/452 (subject site)

Adam Harrington was refused permission for the construction of a dwelling and wastewater treatment system. Permission was refused on 10/10/23 for the same reason to this application.

PA Ref. 18/191 (subject site)

Vincent and Maureen McGovern sought permission for a dwelling, attached ancillary dwelling. Further information was requested by the PA in relation to rural housing needs and the right of way over the private road to the development site. The application was then withdrawn.

PA ref. 21/480 (adjoining site)

Jamie Harrington was granted permission on 25th February 2022 for the construction of a dwelling and wastewater treatment system.

Jamie Harrington was originally granted planning permission for a dwelling at this site in June 2011 under application ref. 10/862 (and extended under application ref. 16/158), which expired on 12th July 2021.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

Objective TM 12-13: National, Regional and Local Road Network

m) Avoid the creation of additional access points from new developments or the generation of increased traffic from existing accesses onto national roads to which speed limits of greater than 50kph apply.

Objective RP 5-2: Rural Generated Housing

Sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community.

Objective RP 5-5: Tourism and Rural Diversification Area

This rural area has experienced high housing construction rates and above average housing vacancy rates which has led to concerns that a higher demand for holiday and second homes is depriving genuine rural communities the opportunity to meet their own rural generated housing needs. Therefore, in order to make provision for the genuine rural generated housing needs of persons from the local community based on their social and / or economic links to a particular local rural area and to recognise the significant opportunities for tourism and rural diversification that exist in this rural area, it is an objective that applicants must demonstrate that their proposal complies with one of the following categories of housing need:

- (a) Farmers, their sons and daughters who wish to build a first home for their permanent occupation on the family farm.
- (b) Persons taking over the ownership and running of a farm on a full-time basis, (or part – time basis where it can be demonstrated that it is the predominant occupation), who wish to build a first home on the farm for their permanent occupation, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.
- (c) Other persons working full time in farming (or part – time basis where it can be demonstrated that it is the predominant occupation), forestry, inland waterway, marine related occupations or rural based sustainable tourism, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.
- (d) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.
- (e) Persons whose predominant occupation is farming / natural resource related, for a period of over three years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.
- (f) Persons whose permanent employment is essential to the delivery of social and community services and intrinsically linked to a particular rural area for a period of over three consecutive years and who can demonstrate an economic and social need to live in the local rural area where they work, within which it is proposed to build a first home for their permanent occupation.

(g) Returning emigrants who spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation, who now wish to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire. It is not necessary for the applicant to show that they have already returned to Cork, provided they can show that they genuinely intend taking up permanent residence.

5.2. National Policy

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030

National Strategic Outcome (NSO) 2 – Enhanced Regional Accessibility

It is an objective to maintain the strategic capacity and safety of the national roads network.

National Policy Objective (NPO) 19

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

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;

5.3. Regional Policy

- Regional Spatial and Economic Strategy for the Southern Region

5.4. National Guidance

- Department of Environment, Community and Local Government's Spatial Planning and National Roads Guidelines for Planning Authorities (2012)
- Transport Infrastructure Ireland (TII) publication DN-GEO-03031 Rural Road Link Design (April 2017)

5.5. Natural Heritage Designations

The subject site is not located within any designated site. The nearest European Site is the Glengarriff Harbour and Woodland Special Area of Conservation (SAC) (Site Code 000090), which is located approximately 400 metres north and west of the subject site. This is also designated as a proposed Natural Heritage Area.

5.6. Environmental Impact Assessment (EIA) Screening

Having regard to the nature, size and location of the proposed development, comprising the construction of a single one off house in a rural area and wastewater treatment system, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Refer to Appendix 1 regarding this preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was lodged to the Board on 2nd April 2024 by Adam Harrington and is summarised as follows:

- The site is located on the family farm where the applicant travels to daily to look after his animals. Consequently, the applicant uses the junction on a daily basis in any event and some days on several occasions. The proposed development would reduce the traffic movements.
- The junction is long established and the N-71 has had major improvement works carried out in recent years. Photos are provided showing the sight distances in both directions.
- The L-8980 serves a large number of existing houses and landholdings and the PA have granted permission for several new houses along the road in recent years and decades with no issue ever raised with the junction. These permissions have already set a precedent.

6.2. Planning Authority Response

The planning authority did not issue a response to the grounds of appeal.

7.0 Assessment

7.1. 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 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 as follows:

- Rural Housing Need (**New Issue**)
- Traffic Safety
- Other Issues

Rural Housing Need (New Issue)

7.2. The Board should note that the planning authority (PA) did not confirm that they were satisfied that the applicant complied with rural housing need, however, this issue did not form part of the reasons for refusal. The subject site is located within a 'tourism and rural diversification area' as designated under the Cork County Development Plan 2022-2028 (CDP) and therefore objectives RP 5-2 and RP 5-5 of the CDP apply.

7.3. The applicant submitted a SF1 Supplementary Planning Application Form and supporting documentation as part of the application, which is summarised as follows:

- The applicant currently lives in Rossnagrena. I note that this dwelling is located approximately 10km northwest of the subject site.
- The applicant previously lived at Arbutus House, Reenmeen, Glengarriff, between the years 2008 and 2020. The applicant's father currently lives here. I note that this dwelling is located within the development boundary of Glengarriff as per the Cork County Development Plan 2022-2028 settlement map.
- Other addresses provided by the applicant are at Coomleaghwest (2022-2023), which is located approximately 22km east of the subject site, and Crostera West (2020-2022) which is located approximately 10km northwest of the site.

- The applicant attended Derrycreeha national school from 1997 to 2000. I note that this school is located approximately 580 metres southeast of the N71/L8980 junction (i.e. the junction to which this appeal relates). The applicant then attended Scoil Fhiachna national school from 2000-2005 and St Goban's college, Bantry, from 2005 to 2010.
- The applicant has stated that Donal Harrington (applicant's father) is the owner of the holding.
- The applicant has stated that he is not personally engaged full time in farming, however, is engaged part time. His occupation is in catering in Macroom.
- For question 3.2(b), which relates to providing the name and address of the principal farmer if neither applicant is involved in farming, the applicant provided the name of his father. However, no details of the extent of agricultural activities undertaken were provided.
- The applicant states that he does not own or ever owned a property, has never received planning permission for a dwelling or has ever previously built a home in a rural area.

7.4. The applicant has stated that he is not engaged in farming and works in the catering industry. The applicant's father lives within the village of Glengarriff and no details of his farming activities are provided. Therefore, based on the submitted information, it is my view that it has not been satisfactorily demonstrated that the applicant complies with criteria (a), (b), (c) or (e) of objective RP 5-5. The addresses provided by the applicant from 2008 to the present day indicate that he has never lived in this rural area of Iskanafeelna. Therefore, it is my view that it has not been satisfactorily demonstrated that the applicant complies with criterion (d). I consider that the applicant's employment is not essential to the delivery of social and community services and intrinsically linked to this particular rural area and therefore the applicant does not comply with criterion (f). The applicant is not a returning emigrant and therefore it is my view that the applicant does not comply with criterion (g).

7.5. Having regard to the above, I consider that, based on the information available, the applicant does not comply with objective RP 5-5 of the CDP and therefore does not have a rural generated housing need to live in this rural area, as required by objective RP 5-2 of the CDP. However, this is a new issue and the Board may wish to seek the

views of the parties, however, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

Traffic Safety

Sight Distances

- 7.6. I note that the applicant has stated that there are adequate sight distances in both directions at the junction of the L-8980 and N-71. The PA noted that whilst there were adequate sight distances to the north towards Glengarriff, sight distances of only 114 metres to the bend to the southeast were achievable. I also note the submission from TII who stated that they would rely on the PA to abide by official policy in relation to development affecting national roads.
- 7.7. Having inspected the site, whilst travelling from the southeast towards the subject junction I did observe that the design speed of this section of the national road was at least designed for the 85kph design speed. I note that an 85kph design speed requires a desirable minimum stopping sight distance of 160 metres, as outlined in Table 1.3 of Transport Infrastructure Ireland's (TII) 'DN-GEO-03031'. I also observed that the road was heavily trafficked.
- 7.8. I note that the applicant submitted a plan at planning application stage indicating that 160 metres sightlines were achievable to the southeast of the junction. However, I did not observe this to be achievable on the date of my inspection due to the horizontal alignment of the N-71 road to the southeast. The maximum sight distance that I was able to achieve was approximately 110 metres. I also note the detailed observation of the PA's area engineer. Therefore, I consider that the existing junction is substandard in terms of sight visibility to the southeast.

Traffic Intensification

- 7.9. Having regard to the above, I will now assess whether the proposed development would generate an increase in traffic utilising the said junction. The Board should note that Section 2.5 of the 2012 Spatial Planning and National Roads Guidelines (i.e. 2012 guidelines) states that it will be a development plan policy of the PA to "*avoid the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kph apply*". Objective TM 12-13(m) of the CDP reflects this in seeking to "*avoid the creation of additional access points from new developments or*

the generation of increased traffic from existing accesses onto national roads to which speed limits of greater than 50kph apply”.

- 7.10. Section 2.6 of the 2012 guidelines considers exceptional circumstances and states that notwithstanding Section 2.5, planning authorities may identify stretches of national roads where a less restrictive approach may be applied, but only as part of the process of reviewing or varying the relevant development plan and having consulted with and taken on board the advice of the NRA (now TII). The junction of the L-8980 and N-71 lies within the 80kph zone and is not a location where the CDP has identified as an area where exceptional circumstances apply.
- 7.11. The Applicant has stated that the site is located on the family farm in which he travels to on a daily basis from Rosnagreinne, Glengarriff, in order to look after his animals. However, the application does not include any details that demonstrates the applicant's involvement in agriculture or the extent of the agricultural activities undertaken within the landholding. The applicant has stated in the application form that he works in catering in Macroom, County Cork. Furthermore, the applicant's family home is not located off this junction but rather within the settlement boundary of Glengarriff.
- 7.12. Therefore, having regard to the above, it is my view that the proposed development would result in the generation of increased traffic to and from this existing access to the N-71 and, therefore, would contravene objective TM12-13(m) of the CDP and Section 2.5 of the 2012 guidelines.

Precedent

- 7.13. I acknowledge that within the applicant's grounds of appeal, it is stated that the PA has already set a precedent for approving housing developments off this road and the subject refusal contradicts the precedent already set.
- 7.14. I have reviewed the Cork County Council's planning register in terms of the planning applications for dwellings granted off this junction and the Board should note that the vast majority of these applications pre-date 2012, and therefore pre-date the introduction of the 2012 Guidelines, with the exception of application ref. 21/480. With regards to ref. 21/480, I note that the PA stated that this grant of permission was largely influenced on the fact that there was a previous permission granted to that applicant on the site as part of application ref. 10/862 (again this original permission pre-dated

the Section 28 Guidelines). Furthermore, it should be noted that as part of this application TII made a submission with no observations.

Other Issues

- 7.15. The Board should note that the PA had concerns regarding the ground conditions of the site in terms of the treatment of wastewater, notwithstanding the subsurface percolation value of 23.39 min/25mm provided within the site suitability assessment. Whilst this did not form part of the reason for refusal, the applicant did not address this issue in the grounds of appeal. Therefore, this is a new issue and the Board may wish to seek the views of the parties, however, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

8.0 Appropriate Assessment (AA) Screening

- 8.1. I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The proposed development seeks to treat wastewater via a septic tank and percolation area and the site suitability assessment submitted recorded a subsurface percolation value of 23.39min/25mm. Surface water is proposed to be treated via soak pits.
- 8.2. The subject site is located approximately 400 metres south and east of the Glengarriff Harbour and Woodland Special Area of Conservation (SAC) (Site Code 000090) where the qualifying interests are old sessile oak woods with Ilex and Blechnum in the British Isles [91A0], alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0], geomalacus maculosus (Kerry Slug) [1024], rhinolophus hipposideros (Lesser Horseshoe Bat) [1303], lutra lutra (Otter) [1355] and phoca vitulina (Harbour Seal) [1365].
- 8.3. 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:
- Having reviewed the Environmental Protection Agency's AA Mapping Tool, I note that there are no direct hydrological connections between the subject site and the designated site.

- Having regard to the separation distance from the European Site regarding any other potential ecological pathways and intervening lands.
- Having regard to the screening determination by the planner of the PA.

8.4. I conclude that on the basis of objective information, that the development would not 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. It is considered that the proposed development would result in an intensification of use of an existing access onto the National Road N-71, at a point where a speed limit of 80kph applies, would endanger public safety by reason of a traffic hazard, and the additional vehicular traffic generated by the proposed development would lead to conflicting traffic movements, which would interfere with the safety and free flow of traffic on the heavily trafficked National Road. Accordingly, the proposed development would contravene objective TM 12-13(m) (national, regional and local road network) of the Cork County Development Plan 2022-2028 and would be contrary to national policy in relation to avoiding the generation of increased traffic from existing accesses to national roads, as set out in Spatial Planning and National Roads: Guidelines for Planning Authorities, published by the Department of the Environment, Community and Local Government in January 2012. Therefore, the proposed development 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.

Gary Farrelly
Planning Inspector

24th July 2024

Appendix 1

(a) Form 1: EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319318-24			
Proposed Development Summary	The construction of a dwelling house, installation of wastewater treatment system and associated site works			
Development Address	Iskanafeelna, Glengarriff, 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)	Conclusion
No				No EIAR or Preliminary Examination required
Yes	X	Class 10(b)(i) Construction of more than 500 dwelling units Class 15 Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in	The development is for a single dwelling unit.	Proceed to Q.4

		respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

(b) Form 2 - EIA Preliminary Examination

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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	The development is for a single dwellinghouse within a rural area. Localised construction impacts expected, topsoil removal etc. Wastewater treatment unit proposed; subsurface percolation value calculated at 23.39min/25mm in accordance with EPA Code of Practice.	No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other	The development site measures 0.4 hectares. The size of the development is not exceptional in the context of the existing environment. There is no real likelihood of significant cumulative effects with existing and permitted projects in the area.	No

existing and/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?	<p>The subject site is not located within any designated site and is located approximately 400 metres from the Glengarriff Harbour and Woodland Special Area of Conservation (SAC). My appropriate assessment screening above concludes that the proposed development would not likely result in a significant effect on any European Site.</p> <p>The subject site is located outside Flood Zones A and B for coastal or fluvial flooding.</p>	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: 24th July 2024

Gary Farrelly