



An
Bord
Pleanála

Inspector's Report

320228-24

Development	Construction of a dwelling house and associated site works (change of permitted plan ref 23/5471)
Location	Finure Whitegate, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	244765
Applicant(s)	Bernice and Paul O'Sullivan
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Gerard A Collins
Observer(s)	Seamus Quinlan
Date of Site Inspection	15 th November 2024
Inspector	Suzanne Kehely

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

1.1. The site as outlined in red with a stated area of .268ha is located in an elevated coastal rural area. It is a greenfield site west of a small village settlement Gyleen (also Guileen). The site adjoins a rear access track to the back lands/gardens/yards of a row of dwellings fronting a coastal path to the south and a street of dwellings to the east. The site and these coastal cottages are only connected to the village main street via a pedestrian path in terms of public access. Vehicular access between the subject site and the main street is via a different road network. The site does not include public road frontage onto the L36451. The wider holding outlined in blue includes a coastal cottage and its curtilage to the rear which also includes a strip of ground with a container alongside the development site. The approach road - L36451 - to the site is marked by a scattering of houses or varying designs whereas the established dwellings are on dense narrow plots. A thatched cottage is located east of the holding. The nearest dwelling is directly south on much lower ground and separated by hedgerow while there are open views of a dwelling to the west on moderately lower ground.

2.0 Proposed Development

2.1. The application is for a house and wastewater treatment plant on a site where permission has been granted in 2023. In effect the proposal is for a change of house type from single to two storeys. It involves a revision to the roof design to provide a first-floor accommodation. Plans show a 3rd and 4th bedroom and study at this new level while retaining the same ground floor plan. The proposed ground floor is proposed at lower level by a depth of 300mm.

2.2. Revision to roof profile includes

- A higher ridge - the overall ridge height revised from the 4.5m to 6.30m in height
- A change in span to continue slope down to include ground floor annex (shown with flat roof previously).
- Inclusion of two vertically proportioned dormers below ridge height and two roof lights in the southern slope.
- Inclusion of a roof light in the northern slope.

- A gable first floor window.

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 10 conditions

3.1.1. Conditions

As compared to the previous permission the conditions have been reduced in number by taking out some repetition and updating to include Uisce Eireann requirements. They are essentially the same and bespoke conditions include no.4 requiring a landscape plan and nos.5 and 6 regarding specific entrance design. The development contribution has also been updated.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The assessment is confined to the material changes to what is described as the parent permission and the issue therefore relates to devised design only.
- While it noted that there will be a relative raising in height, it is not considered to be significant to warrant re-design. The visibility is considered limited from the public road and there is no change in impact on the village cluster to the south. By comparison with dwellings to the west, the proposal remains lower by a difference of 300mm.

3.2.2. Other Technical Reports

- The area engineer has no objection. In respect of roads and access it is noted that the metalled road is 3m wide and is in a cul-de-sac with low speed available. Sight distance at the existing entrance is stated to be adequate to this location.
- Uisce Eireann has no objection (no report on file)

- Co Archaeologist: No comments (no report on file)

3.3. Prescribed Bodies

No reports

3.4. Third Party Observations

Gerard Collins makes observations about the need to respect the high value landscape in considering a larger scale proposal. The larger scale is seen as attempt to revert to what was previously refused permission. permission would set an undesirable precedent for achieving permission for something previously refused.

The scale I s not in keeping

Housing need has not been independently verified

Compliance with condition in respect of vehicular entrance is submitted not to be possible due to ownership.

Seamus Quinlan objects to the development on grounds of restricting access to his property and generally not respecting his right of way. It is submitted that he relies on the access through the development site for serving his property such for access to septic tank and for machinery. He only has a narrow-stepped pedestrian passageway from the front of his house.

4.0 Planning History

PA ref 23/05471 refers to permission to B and P O'Sullivan for a new dwelling entrance and WWTS on subject site. This was on foot pf further information clarifying medical detail of the applicant having regard to the provision for exceptional health circumstances of the applicant. . Condition 2 restrict use: 'shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs and shall remain so occupied for a period of at least seven years thereafter.... unless on this consent for its occupation by other persons

who belong to the same category of housing need as the applicant.' A Section 47 agreement is required.

ABP 302296 refers to refusal of permission in 2019 to R. O'Sullivan for a dwelling house on the subject site for the stated reason:

Having regard to the location of the site within an "Area Under Strong Urban Influence" as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, and in an area where housing is restricted to persons demonstrating local need in accordance with the current Cork County Development Plan and in particular the provisions as stated in objective RCI 4.2, it is considered that the applicant has not satisfactorily demonstrated that he comes within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. It is considered, therefore, that the proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

In the direction the Boards stated: The Board noted objective GI 6-1 of the current county development plan which refers to matters of design and accommodation of development into the receiving landscape and as particularly expressed in GI 6-1 (d) to protect skylines and ridgelines from development. This objective is considered reasonable. The proposed development would be visually obtrusive and visually detract from the scenic and visual quality of the area and would, therefore, be contrary to the proper planning and sustainable development of the area. The site of the proposed development is located in an open and exposed coastal area designated as high value landscape as identified in figure 13.2 in the current Development Plan for the area. The proposed development is also physically removed from the built-up cluster of development of the village of Gyleen. The Board decided not to include this as an additional reason having regard to the substantial reason for refusal above

PA ref 22/4771 refers to a withdrawn application by R. O'Sullivan for a dwelling on subject site following a request for further information

PA ref 14/4041 refers to permission for boathouse/garage ancillary to the dwelling all within landholding outlined in blue. (expired on 19/3/2024 following extension of duration)

5.0 Policy Context

5.1. Corl County Development Plan 2022-2028

Rural Housing

- **CDP objective RP 5-4. Rural housing:** The site is located in a Rural Area Under Strong Urban Influence and Town Greenbelts. Applicant must satisfy criteria that it is genuine rural generated housing need such as farm related or established residency.
- **CDP objective RP 5-10** provides for **Exceptional Health Circumstances** wherein it will '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 a family support in the rural area will stop the application for a road running must be supported by relevant documentation from registered medical practitioner and qualify representative of the organization which represents her supports persons with the medical condition or disability. Applies to all housing policy area types.

Landscape

The site is located in a High Value Landscape area as delineated on the CDP maps. Section 14.8.5 in Vol 1 defines High sensitivity landscapes as vulnerable landscapes with the ability to accommodate limited development pressure. In this rank landscape quality is at a high level, landscape elements are highly sensitive to certain types of change. If pressure for development exceeds the landscape's limitations the character of the landscape may change

- **Objective GI14-9 landscape**

- a) protect visual and scenic amenities of County Cork's built and natural environment
- b) landscape issues would be an important factor in all land-use proposals ensuring proactive view of development is undertaken while protecting the environment and heritage generally in line with the principles 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 historical walls or other distinctive nature treatments.

5.2. Built and Archaeological Heritage

- 5.2.1. The housing cluster to the east is included in the Sites and Monuments Record. In this is describes the coastal cluster as 'Coastal village overlooking Powerhead Bay, which retains several houses shown on 1842 OS 6-inch map. All are 1-storey and many are or were thatched, mainly with hipped roofs. Fronts range from 3-5 bays with central doorway. According to local information there were three shops and two public houses in the past; one public house survives.'
- 5.2.2. The above description is derived from the published 'Archaeological Inventory of County Cork. Volume 2: East and South Cork' (Dublin: Stationery Office, 1994).

5.3. Natural Heritage Designations

The nearest designated site (Cork Harbour SPA) is at a distance of over 4km from the proposed development.

5.4. EIA Screening

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. Refer to Form 2 in Appendix 2.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Gerard Collins has appealed the decision to grant permission primarily on the grounds of:

- Restricted access to the site as the applicant does not own land on either side of the proposed access to comply with the entrance requirements. Nor does the applicant have right of way over appellant lands from public road.
- Overall, the proposal impacts on the enjoyment and value of the appellant's property adjoining the development.

6.1.2. Previous observations on the application regarding visual impact and scale and housing are also attached - these have been summarised in this report.

6.2. Applicant Response

6.2.1. The applicant refutes the claims regarding the land ownership and rights and states that the O'Sullivan's and another family (not the appellants name) own the track and that they have given the right of way to the appellant.

6.2.2. The appeal is submitted to be vexatious having regard to

- The nature of the proposal to only vary the design of a permitted development.
- The appellant has not objected to other similar development.
- The appellant does not live in Ireland.

6.3. Planning Authority Response

- No further comment - relevant issues are considered to have been covered

6.4. Observations

6.4.1. The owner of property adjacent to the site relies on subject site for access to land for the purposes of vehicular and machinery access for example for septic tank

maintenance and repair and replacement. Issues as raised with PA are restated. Photographs are appended to submission.

6.5. Further Responses

None

7.0 Assessment

7.1. Scope of Issues

- 7.1.1. In this case, while the application is presented as being for a dwelling house and site works, it is in effect only seeking to revise the house design by way of revising the roof level to provide for habitable accommodation at this level. While the Board has previously refused permission on grounds of housing need and also expressed reservations about the visual impact, the planning authority was subsequently satisfied with the principle of a dwelling house based on exceptional medical circumstances and need for a single storey rural dwelling with convenient parking. The planning authority makes reference to the extant permission as a parent permission and confines its consideration to only matters of design and visual impact. The conditions however do not refer to the 2023 permission nor do they fully sit within the parameters of the extant permission, primarily in terms of duration of permission. I note however that the description and public notices refer to change of plan to that permitted under planning ref 23/5471 and that the proposal also excludes site specific details for the wastewater treatment disposal.
- 7.1.2. On the one hand, as the application is for a dwelling and site works it could be re-assessed in terms of principle. On the other hand however, in view of the extant permission and reference to 'change of plan' in the description and details submitted I consider this provides for consideration only within the parameters of a parent permission - that being for a dwelling house and ancillary services (access and WWTP) on the subject site. Accordingly, if the Board is of mind to grant permission the conditions should include reference to complying with the terms of the parent permission in the interest of clarity and to ensure ancillary services are provided.
- 7.1.3. In taking the latter approach, I do not therefore consider the principle of housing need is open for consideration. Site works such as the access and WWTP are

therefore only relevant in so far as the proposed changes in plans have material impacts. Having reviewed the submission and inspected the site and planning history, I consider the issues for consideration relate to:

- Visual amenity
- Intensification of use

7.2. Visual impact

7.2.1. The planning authority considers the proposed increase in height to be within acceptable limits. I note the report refers to a height of 4.5m for the house as permitted. From my examination of the drawings, (please note the drawing scale is irregular at 1:75,) the applicant is seeking to raise the ridge height of the dwelling by approximately 1.8m. It is proposed to lower the ground by 300mm but the drawings do not show contours of how this is to be achieved in terms of landscaping and drainage. The net effect with these ground works is a reduced overall net increase in height of 1.5m as measured above sea level and relative to existing properties.

While this may be viewed as modest, I consider that having regard to

- the elevated and exposed nature of the site and its limited capacity to absorb development,
- the separation and elevation relative to the established village cluster to the south and east which is a key landscape feature
- and the overall visually sensitive context,

that the proposed height of the raised roof would be visually obtrusive in the skyline and would detract from the landscape character and visual amenities of the area.

This is a significant consideration given the 'high value landscape' and requirements and aims in objective GI 14-9.

7.2.2. In view of the circumstances of the case, I consider such an increase in height to be un-warranted and to conflict with objective GI14-9. For context, I note that the house that was refused permission by the Board had a similar footprint of 105 sq.m. and a height of 5.394m and that the attached Direction to the Order stated the Board's concerns regarding visual impact but excluded this from the order given the substantive reason for refusal relating to housing need.

7.2.3. In view of the foregoing and to the proper planning and sustainable development of the area, I consider that permission should be refused on grounds of visual impact.

7.3. Intensification of site development

7.3.1. The proposal seeks to almost double the floor area by the provision of an additional 100sq.m. of accommodation. While the floor plans show 4 bedrooms and a study, the size of two of the additional bedroom at 36sq.m. and 21sq. respectively provides for very generous habitable accommodation. I note that the wastewater treatment system is designed for a PE of 5 and that the site characterisation report concludes that the 'restricted site area' necessitates a secondary treatment system and polishing filter. I further note that the site outlined in red is in the order of .125ha contrary to the .268ha area stated in the application form. I have two concerns. The first relates to the capacity of the system for a house of the scale proposed over the long-term having regard to the required R2 Groundwater response for a locally important aquifer with extreme vulnerability. Secondly the proposal seeks to lower the ground level which may have a bearing on flow and operations. I am not fully satisfied that this matter has been adequately addressed. While it is open to the Board to invite further details in this regard, I do not consider this to be beneficial in view of the substantive reason to refusal

7.3.2. In terms of vehicular access, the only material change appears to be the intensification of use of the entrance consequent on the almost doubling of the house size. The drawings do not include details of how the permitted entrance at the junction with the public road complies with design criteria for splayed entrance and sightlines as specified in conditions for the extant permission. While permission is on the basis of provision of such in accordance plans permitted, I note that the area engineer has no concerns about traffic safety. While on balance I do not consider the level of traffic generated by the extension to be significant, it would be preferable to include access details to enable full consideration.

7.3.3. In respect of rights of way and legal interest I note that the footprint of the development is to remain and that the red delineated boundary is set back from the blue line and this space appears to align with the track providing access to lands within the applicant's holding in addition to other properties subject to legal

entitlements. There appears to be no material change from that permitted. I concur with the planning authority that matters of civil dispute are not within the remit of the planning authority or the Board. In any event, a grant of planning permission in itself does not confer absolute rights to proceed with the development. I do not consider obstruction of rights of way to constitute reasonable grounds of refusal.

8.0 AA Screening

8.1. Having regard to the nature and small scale of the proposed development and considerable distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on any European site

9.0 Recommendation

9.1. I recommend a decision to refuse permission based on the following reasons and considerations

10.0 Reasons and Considerations

The proposed development, by reason of height and siting in an elevated and exposed coastal site would be visually obtrusive and would detract from the scenic and visual amenities of the area that is designated as a 'high value landscape' in the Cork County Development Plan 2022-2028. It is considered therefore that the proposed development would be contrary to objective GI 14-9 of the county development plan in respect of aiming to, (a) protect visual and scenic amenities of County Cork's built and natural environment, and (d) protect skylines and ridgelines from development. 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.

Suzanne Kehely
Senior Planning Inspector

29th January 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP- 320228		
Proposed Development Summary	House and wastewater treatment plant		
Development Address	Gyleen Co.Cork		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes	x	
	No		
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes		State the Class here.	Proceed to Q3.
No	x		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	x		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	Class (10)(b) of Schedule 5 Part 2 Construction of more than 500 dwelling units; Urban development which would involve an area greater than 2 ha in the case of a business district, 10. ha in the case of other parts of a built-up area and 20 ha elsewhere	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	<input checked="" type="checkbox"/>	Screening determination remains as above (Q1 to Q4)
Yes	<input type="checkbox"/>	

Inspector: _____ **Date:** _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP- 320228
Proposed Development Summary	House and wastewater treatment plant
Development Address	
<p>The Board carried 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> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposal is for the construction of a dwelling house and all associated site works in a rural area. It is not an exceptional type of development in this rural area. The development involves treatment and disposal of effluent to ground and attenuation tank (as previously permitted). There will be a modest increase in loading. Subject to compliance with the relevant standards this will not result in pollution. Disposal of storm water to onsite tank and soak pit will not result in significant pollution. The proposed development will not result in the production of significant waste, emissions, or pollutants.</p> <p>This is a relatively small development in this rural context. There is no real likelihood of significant cumulative effects with other permitted developments.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas,</p>	<p>There are no significant ecological sensitivities on the site.</p> <p>The SMRCO100-034 relates to a historic coastal village cluster and the map notation is within 100m of the site. The interaction between the site and the village cluster is visual as reflected in the former PA considerations on the site. It also has potential to relate to subdivision of a historical plot (as permitted) and possible historic paths between</p>

<p>landscapes, sites of historic, cultural or archaeological significance).</p>	<p>properties and surrounding land. The County Archaeologist has made no comment.</p> <p>In the extant permission I note that a revised design with a single storey pitched roof was considered to be more reflective of the vernacular was considered in keeping with the character of the historic settlement.</p> <p>The site as outlined in red excludes a strip of ground relating the access alongside adjoining property. I consider any potential for impact on pathways and/or any archaeological remains along a potentially ancient route associated with this historic cluster could be addressed by condition.</p>	
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>While there are visual and historic sensitives in the area, I do not consider them to be of a magnitude to warrant an EIA given that such matters can be addressed under normal planning considerations</p>	
<p>Conclusion</p>		
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>	
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>	<p>x</p>
<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p>		
<p>There is a real likelihood of significant effects on the environment.</p>		

Inspector:

Date:

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

(only where Schedule 7A information or EIAR required)