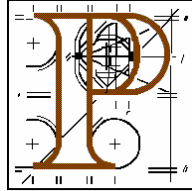


An Bord Pleanála



Inspector's Report

Development: Two storey, 74 bed residential nursing home with dining rooms, dayspaces/ lounges, bathrooms and ancillary facilities with T junction access from regional road R755 beside bridge over N11 at Kilmacanoge South, Co. Wicklow.

Planning Application

Planning Authority: Wicklow County Council
Planning Authority Reg. Ref.: 09/1305
Applicant: P. Costello
Type of Application: Permission
Planning Authority Decision: Grant

Planning Appeal

Appellant(s): Patrick Lawlor
Michael Collins

Observers: None

Type of Appeal: Third Party
Date of Site Inspection: 06/10/10

Inspector: Gillian Kane

1.0 SITE LOCATION AND DESCRIPTION

The subject site is a pocket of land, to the south of the village of Kilmacanogue, along the western side of the N11. The site is essentially an irregular rectangle shape to the rear of the residential properties on Quill road and adjoining the open land running alongside the N11 transport corridor.

The site has two sections of road frontage. The northern boundary adjoins the curved R755 as it runs from the village of Kilmacanogue over a road bridge to the roundabout serving the N11. The south-western boundary of the site fronts onto Quill Road, a narrow, winding and poorly aligned rural road serving residences and some agricultural land. There is an agricultural site entrance at this point. The remainder of the western boundary adjoins the rear gardens of 4 no. properties on Quill Road. The eastern boundary comprises a wire fence separating the site from wooded land directly adjoining the N11. The central and northern portions of the site are linked to the southern portion by a narrow strip of land. The topography of the area results in a large portion of the site being within a low lying hollow on three sides: north, west and south, with a significant ground level change along these boundaries. This results in the site being not particularly visible from the surrounding area.

Within the northern section of the site, in the approximate location of the proposed nursing home, the applicant has placed 4 no. poles with hi-visibility clothing at the top. These can be seen in the attached photographs.

There is an existing foul sewer traversing the site, part of the Quill Water & Sewerage Group Scheme, to serve several houses on Quill Road. On the date of the site inspection following a long period of dry weather the site was wet and marshy underfoot with numerous areas of rush growth. There appeared to be an informal vehicle track running through the site.

2.0 PROPOSED DEVELOPMENT

2.01 Application Lodged 15/12/09

Permission was sought for the construction of a two storey, 74 bed residential nursing home with dining facilities, dayspaces / lounges, bathrooms and ancillary facilities. Access to the proposed development is via a T-junction access from the regional road R755.

2.1 Reports on File following submission of application

The application was accompanied by a planning statement, a Traffic Impact Assessment (TIA), an Arboricultural Report, Sunpath diagrams, Geotechnical report, Road Safety Audit engineering report, legal documentation relating to land transfer and a number of diagrammatic 3-d views.

2.1.1 **Roads Department:** Comments made requiring compliance and additional information.

2.1.2 **Roads Design:** A number of detailed comments are made regarding the status of the road network and deficiencies in the transport assessment and TIA. Refusal is recommended on 6 no. grounds relating to the creation of an additional entrance and junction on the interchange link road and the inadequacy of the traffic assessment.

2.1.3 **Water and Environmental Services:** Refusal recommended due to the risk of flooding from lack of emergency stormwater overflows, inadequate ground permeability and an underestimation of attenuation storage.

- 2.1.4 **Eastern Regional Fisheries Board:** Proposed development is located in the catchment of a salmonid stream and relevant constraints apply. Comprehensive surface water management measures must be implemented.
- 2.1.5 **Environmental Health:** No objection subject to conditions
- 2.1.6 **Fire Officer:** No objection subject to recommendations.
- 2.1.7 **National Roads Authority:** The application is at variance with national policy in relation to control of frontage development on national roads, as the proposed development by itself or by the precedent it would set would adversely affect the operation and safety of the national road network. The proposal would create a new access on the national road where the maximum permitted speed limit applies.
- 2.1.8 **Planning Report:** Refusal recommended on traffic grounds and risk of flooding.
There is a handwritten note at the end of the planning report which is signed by Fergal Keogh, Senior Engineer of Wicklow County Council. The note states that he does not agree with the report of the NRA and that he does not consider that the proposed entrance is on to a national road. It is stated that the proposed development is not at variance with national policy and that all issues can be addressed by way of further information.

2.2 Further Information Received 07/04/10

2.2.0 The Planning Authority requested further information on the following grounds:

- Ensure proposed entrance is in accordance with the DMRB in particular TD4-42/09,
- Clarification of certain details in the Traffic and Transport Assessment,
- Revised drawings indicating all recommendations in the Road Safety Audit (RSA),
- Details of public and pedestrian facilities,
- Details in relation to engineering services,

2.2.1 The response to the further information request was accompanied by a Transportation Planning Services Report. The response generated the following reports:

2.2.1 **Water and Environmental Services:** Some issues outstanding, clarification of further information needed.

2.2.2 **Senior Engineer:** The response to some issues is unsatisfactory. Recommendation: subject to appropriate conditions the development would be acceptable in terms of traffic safety and would not impact on the free flow of traffic on the existing road network, including the N11.

2.2.3 **Planning Report:** Traffic and transport issues have been satisfactorily addressed, clarification of further information necessary with regard to water and environmental services.

2.3 Clarification of Further Information Received 28/05/10

The response was accompanied by engineering drawings and calculations. The response generated the following reports of note:

2.3.1 **NRA:** The Authority's submission of Jan 2010 remains.

2.3.2 **Roads Design Office:** Issue regarding the structural stability of the road embankment are brought to the planning departments attention. Items highlighted previously have not been addressed. Refusal of permission is recommended on 6 no. grounds.

A hand written note which is signed by Fergal Keogh, Senior Engineer notes that all issues were commented on by him in the previous report. With regard to the structural stability issues, Mr Keogh notes that the issues can be dealt with by way of condition (an email to this effect is included within the file).

2.3.3 **Planning Report:** Issues raised have been addressed and are considered acceptable. Recommendation to grant subject to conditions.

3.0 PLANNING AUTHORITY DECISION

By order dated 22/06/10 a notification of decision to GRANT permission subject to 17 no. standard conditions. Condition no. 4 requires a detailed design and construction method statement for all works relating to the proposed road embankment. Condition no. 11 requires a stage 2 and 3 road safety audit for the proposed junction on to the N11 slip road.

4.0 PLANNING HISTORY

PL27. 232205. Planning permission was sought for the construction of a nursing home with a stated floor area of 3,606.9 sq.m. The proposed home contained 80 bedrooms and ancillary facilities including dining rooms, day spaces/lounges and bathrooms. Permission was refused by the Bord for the following reason:

“It is considered that the proposed development, which takes access from the Kilmacanogue Slip Road to the N11, which is part of the Kilmacanogue Road Junction on the N11, would endanger public safety by reason of traffic hazard due to the conflicting and increased traffic turning movements which would be generated. The proposed development would also contravene the objectives of the planning authority to preserve the level of service and carrying capacity of the National Primary Road and to protect public investment in the road. The proposed development would, therefore, by itself and the precedent it would set for similar such development, be contrary to the proper planning and sustainable development of the area.”

5.0 NATIONAL POLICY

5.1 Policy Statement on Development Management and Access to National Roads (2006)

The NRA policy on development control and national roads states that it seeks to promote good planning strategies and avoid inappropriate development that negatively impacts on national roads. The Authority supports a strategy that seeks to prevent a proliferation of roadside developments along national roads to which high speed limits apply i.e. greater than 50kph.

Section 3.1 of the policy states that save in exceptional circumstances the Authority will adopt a restrictive approach in the case of other national roads to which speed limits other than 50kph apply as regards development proposals involving new access or the generation of increased traffic from existing operations and activities on such roads.

With regard to the impact of development on interchanges **section 3.2.3** states that it is necessary for Planning Authorities to exercise particular care in their assessment and management of development proposals relating to

the rezoning of locations at or close to interchanges where such development could generate significant additional traffic, thereby potentially compromising the capacity and efficiency of the national road / associated interchanges and possibly leading to the premature and unacceptable reduction in the level of service available to road users.

5.2 Spatial Planning and National Roads – Consultation Draft, Guidelines for Planning Authorities (2010)

The guidelines primarily apply to the national roads network and set out policy with regard to planning considerations relating to development affecting national roads outside the 50-kph speed limit zones for cities, towns and villages.

Within the “**key principles**” section 1.2 the draft guidelines state “The creation of new accesses to national roads gives rise to the generation of additional turning movements that introduce additional safety risks to road users”. It is stated that Planning Authorities and the NRA must support a strategy that seeks to prevent a proliferation of roadside developments along and accessing national roads to which speed limits greater than 50kph apply.

Section 1.5 states that national, regional and local roads are classified under section 10 of the Roads Act 1993, as amended. The draft guidelines recommend that Planning Authorities identify those stretches of non national roads outside the 50kph speed limit zones to which these guidelines should also apply.

Appendix 5 of the draft guidelines define road types as follows:

National Primary Roads: Long distance roads other than motorways and high quality dual carriageways joining significant centres of population and/or providing for national and inter-regional traffic flow.

National Secondary Roads Roads that are medium distance through routes connecting important towns, serving medium to large geographical areas and linking to the national primary routes to form a homogenous arterial network.

Non National Roads Fall into two broad categories, as follows: (1) Regional Roads which are either: (a) Inter urban roads which improve mobility between local economies and which link to national roads, ports, airports etc; or (b) Other roads which facilitate the development of strategically placed land banks. (2) Local Roads serving very localised areas.

Section 2.4 of the draft guidelines state that development plans must make it clear that the policy of the Planning Authority will be to avoid the creation of additional access points from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 50kph apply.

6.0 LOCAL POLICY

6.1 Wicklow County Council Development Plan 2010 – 2016

The subject application was lodged under the WCC development plan of 2006 -2010. In the interim, the 2010-2016 plan was adopted.

The subject site lies partly inside and partly outside the development boundary of Kilmacanogue village as per map 06.01c. (see attached map)

The northern and southern sections are outside, with the central portion that approximately refers to the location of the proposed nursing home is inside the boundary. There is no current Local Area Plan for Kilmacanogue, which is designated as a Level 6 Rural Town.

6.1.1 Designation

Chapter 6 of the development plan notes that such towns are strong rural towns, with a good range of infrastructural services and are suited to accommodating a significant element of urban generated housing demand, with necessary controls in place to ensure that local demand can also be met. These towns are differentiated in this plan from Small Growth Towns having regard to their more rural character and the rural nature of their catchments. Such rural centres are considered to contain the potential to consolidate rural development needs and support the maintenance of essential rural social and community infrastructure such as schools, shops, public houses, post offices and local sporting organisations.

Section 7.4.1.3 of the development plan states that settlements along the main transportation corridors of the N11 and N81 are strategically located so as to take advantage of their accessibility to the main transportation routes of the County and as such, settlements along these routes should be specifically targeted for growth in 'product' based intensive industries

6.1.2 Roads

Section 11.4.1 notes the works objectives for national roads. Of relevance to the subject development is the upgrading (including widening to three lanes) between the County boundary and Kilmacanogue / Glen Of The Downs and the provision of free flow junctions at the Killarney Road interchange as shown on Road objective (B) Map 11.01. (see attached map)

Regional road objectives include: **RR2** To improve the regional road links between the national road network and the growth centres of County Wicklow in order to cater for anticipated additional traffic flows and to facilitate the economic development of these settlements.

Section 11.7.2 states: A new means of access onto a regional road will be strictly controlled and may be considered if one of the following circumstances applies: the regional road passes through a designated settlement and a speed limit of less than 50km/h applies; where the new access is intended to replace an existing deficient one; where it is demonstrated that the entrance is essential and no other means of access is available and also that Permission will generally not be considered for new development adjoining the regional road even where no vehicular access is created because hazardous situations often still arise due to unregulated parking and the opening of pedestrian routes.

6.1.3 Car Parking

Car parking standards are set out in **Table 11.2** of Chapter 11 and require 0.5 spaces per bed for nursing homes. **Table 11.3** requires bicycle parking for 20% of employees of nursing homes.

6.1.4 Entrances and Sight Lines

With regard to entrances & sight lines **section 11.7.4** requires that: In all areas, new entrances shall be designed having regard to the function and traffic volumes on the adjoining public road as well as pedestrians, cyclists and vulnerable road users. Also that clear sightlines will be required to be available or provided at new junctions and entrances. The sight distance required shall be calculated using the applicable road design manual (at the time of application) having regard to the following criteria:-

- the designation of the road, its function in the road hierarchy and existing / projected volumes of traffic;
- the typical speed (not the speed limit) of the road;
- the vertical and horizontal alignment of the road;
- and any other such factors that may be pertinent to the specific location or as may be set out in road design manuals.

When locating new entrances and proposing increases in traffic movements at existing entrances, it must be shown that vehicles turning right into the entrance do not obstruct or cause a hazard to other road users. Sufficient forward sight distance must be available to (a) cars approaching an entrance in case a car is waiting on the road carriageway to turn right, (b) for cars waiting to turn right at an entrance. Right turning lanes may be required and these shall be designed in accordance with the applicable road design manual (at the time of application)

6.1.5 Road Gradients

Section **11.7.5** states that road gradients shall generally be flat gradients (i.e. no more than 1:40 / 2.5%) at new junctions / entrances. The length of this flat area shall be determined having regard to the function of the new road. For commercial developments a length of 10m or more may be required in order facilitate larger vehicles such as delivery vans, refuse trucks etc. Roads serving new housing or commercial development shall nowhere be allowed to exceed a gradient of 1:10 (10%). Where a development includes roads at such gradients, the gradients will be required to be reduced appropriately at bends and corners.

6.1.6 Community Facilities

Chapter 15 of the development plan relates to community facilities. **Section 15.3.2.2** outlines 5 no. objectives for residential and day care centres. **Policy NH2** states: Residential and day care facilities shall in general be required to locate in existing towns or villages and shall be located close to shops and other community facilities required by the occupants and shall be easily accessible to visitors, staff and servicing traffic.

NH4 Edge of centre locations (i.e. locations on unzoned lands at the edge or outside of settlements) will only be considered for residential or day care facilities where: There are good vehicle and pedestrian linkages available to town facilities; The site is within the built 'envelope' of the settlement and would not comprise of an isolated, stand alone development; and the design and scale of the facility is reflective of the semi rural location. **Policy NH5** and the accompanying maps identify 4 no. locations where new or extended nursing homes are required. The subject site is not listed.

6.1.7 Landscape Classifications

Chapter 17 of the development plan designates landscape classifications. The subject site is located within two areas, "urban settlement" and "**Access**

Corridor Area (ACA)". The majority of the site falls within this designation which is noted as having a medium vulnerability. This landscape area covers the main access corridor areas of Wicklow. The plan states that the Eastern Corridor relates to the mainly lowland area of influence of the N11 road and that these corridors are under intense pressure from residential and other sporadic development.

The view of the Sugarloaf mountain from the N11 at Kilmacanogue is a designated view of special amenity as per Map 17.10 and Schedule 17.8 of the development plan. **Policy VP1** seeks to protect listed views and prospects from development that would either obstruct the views / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect

6.2 Development Contributions

The appeal site is not located within an area identified by the development plan for the application of supplementary development contributions.

7.0 GROUNDS OF APPEAL

The application was appealed by 2 no. third parties.

7.1 Appeal of Patrick Lawlor

- The proposed development is essentially the same development as was previously refused by the Bord. The proposed reduction in beds is an irrelevant cosmetic change as the refusal was based on traffic grounds.
- It is submitted that objections to the proposal relate to the creation of an access point on a fast moving curved slip road off the N11.
- It is submitted that the NRA have maintained a consistent opposition to the project. The overruling of the NRA's concerns by the Council does not address the Bords concerns regarding traffic danger which are regardless of the N11 or R755.
- It is submitted that the planning file is inconsistent with recommendations for refusal being followed by recommendations to grant with no supporting documentation.
- It is submitted that there is no response to concerns regarding water issues.
- It is submitted that it is irrelevant whether or not the proposed access is off the slip road or the N11, the concerns of the NRA in terms of safety and precedent are relevant and should be paramount.
- It is submitted that even with stringent sight lines, the development will constitute a major traffic hazard. It is submitted that traffic rarely obeys the speed limit and the westerly sight lines are limited.
- It is submitted that the main danger will be to traffic existing with a right turn however traffic entering the development will also experience severely limited sight lines.

7.2 Appeal of Michael Collins

- It is submitted that the proposed development is substandard, would give rise to a very serious traffic hazard, would depart from the precedent of the Council regarding development within sight of the N11, would give rise

to further suburban development in a rural area and would interfere with views of the Sugarloaf from the N11.

- It is submitted that the safety issue raised by the Bord has not been addressed and the application should be refused. It is submitted that the name of the road is irrelevant as it carries a huge amount of traffic.
- It is submitted that a large commercial development on the site would represent a departure from previous policy as it the proposed building is seriously out of character with the surrounding properties.
- It is submitted that manner in which the Council ignored the views of the Roads Design Office and the NRA is reckless
- It is submitted that the traffic survey is inadequate and does not comply with NRA traffic assessment guidelines.
- It is submitted that the proposed development would create an extraordinary and negative precedent with a traffic opening from an elevated flyover which serves a much criticised junction.
- It is submitted that Wicklow CC has often refused permission for dwellings on the basis of their proximity to and visibility from the N11 and therefore the current decision is inconsistent.
- It is submitted that it appears that conditions for a grant of permission were prepared in advance of an evaluation of the further information.

8.0 RESPONSES

8.1 Planning Authority Responses

No response.

8.2 First Party Response to Third Party Appeals

The applicants response to the 2 no. third party appeals is accompanied by

The issues raised in the response can be summarised as follows:

- The applicant and agents note that the nature and scale of the proposed use was acceptable to the Bord subject to the resolution of access arrangements. There is no alternative access point. The revised proposal was deemed appropriate by the Council.
- The proposed development is substantially different from the previous application with a reduction in floor space, reduction in traffic movements and a modified access.
- A detailed and professional traffic impact assessment and road safety audit in response to the specific further information request.
- The proposed entrance sight lines exceed that required and were deemed acceptable by the Council. A traffic engineering report is submitted. If the Bord requires, a left in / left out arrangement can be conditioned. The applicant is willing to submit drawings to the Bord for circulation.
- It is the applicants position that the road from which the development would take access is not part of the N11 but rather a replacement of the old access road to Kilmacanogue village. It is manifestly clear that the proposed development does not front on to a national road and that the maximum speed limit does not apply. Accordingly the observation by the NRA must be discounted. A series of correspondence between the applicants legal agents and the NRA is submitted.

8.2.1 The issues raised in the Transport and Traffic report can be summarised as follows:

- It is submitted that the NRA's submission is based on the submission that access to the proposed development is taken from a national primary

road. It is stated that the R755 has a speed limit of 50kph, has street lighting and pedestrian footpaths, is under the control of Wicklow CC and has local traffic only. Therefore the road is not part of the N11 national primary road. It is submitted that this is acknowledged by the previous An Bord Pleanála planning inspector and the executive engineer of WCC.

- It is submitted that notwithstanding that there is no requirement to consider a nursing home land use within the NRA traffic and transport assessment guidelines, one was submitted. The TIA assumed trip generation 10 times in excess of that required. The TIA showed that the proposed development would have a negligible impact on the proposed access arrangements or the operation of the surrounding road network. It is submitted that the proposed development complies with section 6.1 of the County Development Plan.
- It is submitted that the TIA did take extraordinary events into account. It is stated that nursing home residents do not receive visitors, funerals are not undertaken on site and additional traffic is only generated by a Christmas party. Car parking provision is in accordance with the County Development Plan .
- It is submitted that sight lines provided are in excess of those required.
- A review of the TRICS database was undertaken following a request for further information. A worst case traffic scenario was applied with growth rates predicted to 2027. The results of the PICADY and ARCADY analysis showed that existing traffic levels combined with worst case traffic scenarios can be accommodated at the proposed site junction and the roundabout junctions to the north and south east.
- The recommendations of the Road Safety Audit (RSA) were taken into account when revising the proposed entrance point.
- It is submitted that the Council Engineers statement that the further information response did not address traffic issues is erroneous.
- It is submitted that the NRA have no objection to the permitted nursing home taking vehicular access off the R755 as the proposal is not at variance with national road policy. It is submitted that this is confirmed by the NRA when they state that they are not a party to the appeal. It is submitted that it follows that the proposed access arrangements from the R755 fully comply with the strategic objectives of the NRA.
- It is submitted that it is reasonable to assume that the Senior Executive Engineer of the Council deemed the proposal suitable having reviewed the information submitted.
- It is submitted that there is no technical, policy or procedural reason to prevent An Bord Pleanála granting permission.

8.3 Response of Third Party Patrick Lawlor to response of First Party.

- It is submitted that the proposed development is the same as the previously refused.
- It is submitted that the name of the access road is irrelevant, the issue remains the siting of a large nursing home off a fast moving access road.
- The applicants transportation report ignores the reasons of the Councils Engineer as to why the slip road is an integral part of the N11 network.
- It is submitted that the applicants agent has mistakenly ascribed the comments of Fergal Keogh Engineer in WCC to Dermot Graham Executive Engineer in the Roads Design Office.
- It is submitted that there is nothing to support the applicants agents comment that the NRA have no objection to the development.

- It is submitted that the Bord should agree with the NRA and the Roads Design Engineer of the Council.
- It is submitted that the sight lines claimed are not sustainable. It is submitted that due to the ground levels of the slip road and the site, massive levels of fill will be required which will take months to complete.
- It is submitted that money is a factor in the proposed development and threats of legal action are not acceptable.

8.4 Response of third party Michael Collins to response of First Party

- It is reiterated that the development is substantially the same as that previously refused. The self evident dangers that existed in the first proposal still remain.
- It is submitted that the left in / left out proposal is unworkable, cannot be policed and will generate additional traffic movements across a motorway overpass.
- The revised proposal fails to address the inappropriate location of the proposed development.

8.5 Response of the National Roads Authority

With regard to the location of the subject site, accessing the R755 but in proximity of the N11, the Bord is requested to have regard to the provisions of the Spatial Planning and National Roads Draft Guidelines.

9.0 OBSERVATIONS

None on file

10.0 ASSESSMENT

10.0.1 On reading of all documentation submitted with the appeal, I consider the issues to be:

- Principle of the Appeal
- Previous Decision by An Bord Pleanála
- NRA Submission
- Proposed Site Entrance

10.1 Principle of the Appeal

10.1.1 The proposed development involves the construction of a nursing home with associated car parking. As noted above part of the subject site lies within the development boundary of Kilmacanogue Village. It is on that section of the site that the development is proposed. The site is not one of the 4 no. listed in the development plan as being suitable for new nursing homes, however policy NH2 requires new nursing homes to be located within existing towns or villages and easily accessible to visitors, staff and servicing traffic.

10.1.2 As noted in the previous planning report, Kilmacanogue does not have a defined village centre. The N11 bisects the village and the roads which serve this national road dominate, with little or no pedestrian traffic to the various services and facilities on offer. However, the services are available and the site is within the village boundary, therefore whilst I retain some concerns, I conclude that the proposed development is acceptable in principle.

10.2 Previous Decision by An Bord Pleanála

- 10.2.1 The issue of the previous application before the Bord has been raised by both appellants. They submit that the subject development is substantially the same as that previously refused and thus the Bords previous decision must stand.
- 10.2.2 The substantive issue with the previous development was the access arrangements for the proposed development, possible traffic hazards which may ensue and the potential impact on the N11. The development has been reduced in size and some modifications have been made to the proposed entrance. I am satisfied that the subject development warrants full assessment by the Bord.
- 10.2.3 The first party submit that the classification and / or description of the road from which access is proposed has caused confusion and led to an erroneous report from the NRA, upon which the Bords refusal and the third parties appeal were based. The first party contends that the road from which access is proposed is a regional road R755 and it does not form any part of the N11 road network. I note that the applicant has submitted documentation between his legal agent and the NRA relating to this matter.
- 10.2.4 The appellants contend that the name of the road is irrelevant and that the Bords concern related to traffic safety.
- 10.2.5 In this instance I agree with the appellants: the name of the road is irrelevant. It is clear from the Bords reason for refusal that they were fully aware that the road in question is a slip road which is part of the Kilmacanogue junction to the N11 and not a national road. It is clear that the Bord considered that the additional traffic movements which would be generated by the development would cause a traffic hazard and that the development would compromise the service and capacity of the national road. I am satisfied that the Bord were fully cognisant of the status of the road. Therefore I do not accept that the Bords decision was based on an error nor that the previous decision is vitiated.

10.3 NRA Submission

- 10.3.1 The First Party submit that the NRA are also mistaken in their understanding of the proposed development. They state that the observation made by the NRA proceeds on a fundamentally mistaken premise as it "is manifestly clear that [it] does not front onto a national road and that the maximum permitted speed limit does not apply".
- 10.3.2 The NRA's submission to the Planning Authority states that they consider that the proposed development is at variance with national policy in relation to control of frontage development on national roads for the reason that the proposed development would create a new access on the national road where the maximum permitted speed limit applies.
- 10.3.3 I agree with the first party that the reason given by the NRA does not apply to the subject development as it does not create a new access onto a national road. However, I note that in the submission to the Bord the NRA do not restate that reason but request the Bord to have regard to latest policy documents. This is discussed in greater detail below.

10.3.4 The applicants engineers submit that the statement by the NRA that they are not a party to the appeal means “the proposed access arrangements from the R755 fully comply with the strategic objectives of the NRA”. The engineers also state that the “NRA have no objection to the permitted nursing home development taking vehicular access off the R755 as the proposal is not at variance with the national road policy”. I cannot find any basis for these claims. It would appear that the applicants agent has extrapolated statements of the NRA into something entirely different. The nursing home is not “permitted”, nor do the NRA state that they do not have an objection to the proposed development taking access of the R755.

10.4 Proposed Site Entrance

10.4.1 The issue of whether the road from which access is proposed is a regional or national road occupies much of the submissions regarding the proposed development. However it would appear that all parties are now in agreement and that the matter is no longer in dispute. It is clear from the documentation on file that the subject road is a regional road.

10.4.2 The issue at question therefore is whether the subject road can be considered an integral part of the N11 transport network as claimed by the appellants and some of the technical reports on file or whether it is an entirely stand alone entity.

10.4.3 The R755 runs eastwards through Rocky Valley heading towards the N11. Approximately in Kilmacanogue Village, a spur veers south and runs across the N11 in the form of a bridge, joining a roundabout on the eastern side of the N11. That roundabout provides access from and to the southern corridor of the N11 and to two local roads. If this southern spur was not in place, traffic coming from Enniskerry and Rocky Valley and intending to join the southern corridor of the N11 would need to travel north for a distance and join the south running lanes of the N11 at the Ballywaltrim roundabout. It is this fact that leads me to consider the road to be an integral part of the N11 corridor. I acknowledge that it has street lighting, pedestrian footpaths and a lower speed limit, however as it provides what appears to be the sole access from Kilmacanogue to the N11, its role within the larger transport network cannot be ignored.

10.4.4 It is my opinion that it is this recognition of the road as being one spoke of a larger wheel, that led to the objections from the Bord and the NRA about the potential impacts of the proposed development on the N11. Therefore I consider it reasonable to address the issue of the potential impact of the proposal on the carrying capacity and efficiency of the N11.

10.4.5 The TRICS report states that peak hour trip generation would be 9 inbound and 5 outbound, decreasing to less than 10 movements outside peak hours. When a 7% growth figure is applied (assuming an opening year of 2012), figures shown indicate AM and PM peaks of 50 movements inbound and outbound. The report notes that such growth figures are considered excessive and unlikely. The report does not indicate if the road network can accommodate such growth, even if it is unlikely. The applicant was asked to examine the TIA again following specific requests from the Council. A second traffic count was undertaken in October 2009 the results of which were submitted to the Council. The results showed that the road network could operate at capacity in 2012 and 2027 even assuming a worst case scenario.

- 10.4.6 The Roads Design section of the Council stated that the TIA was insufficient as an assessment of the proposal on the roundabouts at either end of the link road had not been undertaken, no basis for assumptions made had been given, and allowances for an extraordinary event had not been made. In addressing these points the Transportation Report submitted in response to the third party appeals states that “40% of nursing home residents do not have relatives or remaining friends and those that do have are not in a position to visit due to advanced age”. It states that funerals do not take place on site and therefore the TIA is accurate. Following the submission of clarification of further information the Roads Engineer restates his recommendation for refusal. A hand written note from the Senior Engineer of the Planning Department states that these issues had been addressed. I do not agree that these issues had been addressed and therefore by default are deemed satisfactory.
- 10.4.7 I note that the widening of the N11 at Kilmacanogue is an objective of the Development Plan (section 11.4.1 and Map 11.01). I note that the applicant has not addressed how the proposed development may impact upon that objective.
- 10.4.8 I note that the current development plan has a policy on the creation of new accesses on regional roads. Section 11.7.2 seeks to control new entrances to where one of a number of circumstances apply and states that permission will generally not be considered for new development adjoining the regional road even where no vehicular access is created because hazardous situations often arise due to unregulated parking and the opening of pedestrian routes.
- 10.4.9 I retain a concern that the impact of the application does not address the potential of the proposed development on the N11. I note that the revised TIA showing traffic movements at the roundabouts to the north and east of the subject site, do not show traffic counts for traffic joining the southern bound lane of the N11. In addition the application does not assess the policies of the development plan regarding the creation of a new entrance on a regional road or the objective to widen the N11. It is my opinion that without a full assessment, the proposal cannot definitively state that it does not contravene the policies and objectives of the development plan, nor can it definitively prove that the N11 will not be affected. As noted above, it is both national and local policy to protect national roads and the interchanges associated with them. It is my opinion therefore that the proposal also does not comply with national policy as the generation of traffic from the proposed development may compromise the level of service or carrying capacity of this national road.

11.0 CONCLUSION AND RECOMMENDATION

I have read the submissions on file, visited the site, and have had due regard to the provisions of the Wicklow County Development Plan, Policy Statement on Development Management and Access to National Roads, Consultation Draft Guidelines on Spatial Planning and National Roads, the planning history on the site and all other matters arising. I am satisfied that the proposed development is not in accordance with National Policy on Development and National Roads, is not in accordance with the County Development Plan and is not in accordance with the proper planning and sustainable development of the area. I recommend permission be REFUSED for the following reasons:

1. It is considered that the proposed development, which takes access from the R755 which is part of the Kilmacanogue Road Junction on the N11, would endanger public safety by reason of traffic hazard due to the conflicting and increased traffic turning movements which would be generated. The proposed development would also contravene the objectives of the planning authority to preserve the level of service and carrying capacity of the National Primary Road and to protect public investment in the road. The proposed development would, therefore, by itself and the precedent it would set for similar such development, be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Planning Inspector
11/10/10