
An Bord Pleanála



Inspector's Report

Development: House, garage, treatment unit and all associated site works at Gortacolopa, Fossa, Killarney, Co. Kerry.

Planning Application

Planning Authority : Kerry County Council

Planning Authority Register Reference : 15/324

Type of Planning Application : Permission

Applicants : Brenton Griffin & Frances Cronin Griffin

Planning Authority Decision : Grant subject to conditions

Planning Appeal

Appellants : Liz McCarthy & Others

Type of Appeal : 3rd Party v. Grant

Observers : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 19/11/15

Appendices

1. Photographs
2. Extracts from the Kerry County Development Plan 2015-2021

1. SITE LOCATION AND DESCRIPTION

The site, which has a stated area of 0.363 hectares, constitutes part of a larger field in agricultural use at Gortagolopa c. 3 km to the north-west of Fossa and c. 7km to the west of Killarney. The field boundaries are delineated by hedgerows. The site, itself, is relatively level with the proposed location of the dwelling being the highest point with gentle falls both to the lane and to the rear (north). There is a two storey dwelling c.60 metres to the west. Ground conditions were noted to be wet underfoot following a period of sustained rainfall.

The site is accessed via a private lane accessed from a local road that connects the N72 to the south and the R563 to the north. The said private road lane intersects the local road at two points. In both instances sight distances are restricted. The private road is approx. 650 metres in length and provides access to 6 dwellings with a further dwelling at the junction of the lane and local road. The lane can facilitate one way vehicular movements, only, and the surface was noted to be poor along most of its length.

The vicinity of the site, notably along the local road northwards from the private lane is characterised by a pattern of one off housing.

2. PROPOSED DEVELOPMENT

The application was lodged with the Planning Authority (PA) on the **23/04/15** with further plans and details received **01/07/15** following a request for further information (FI) dated 16/06/15 with revised public notices received 16/07/15.

The proposal is for a 225.83 sq.m. two storey dwelling and detached garage to be served by an effluent treatment unit. Water supply is to be from public mains. Ms. Cronin Griffin is the landowners' daughter. The private road is maintained by the said landowners.

In terms of site suitability the water table was encountered at a depth of 2.1 metres. A T value greater than 50 and a P value of 22 were calculated. A wastewater treatment system with polishing filter is proposed.

Note 1: An objection to the proposal received by the PA has been forwarded to the Board for its information. The issues raised are comparable to those cited in the grounds of appeal summarised in section 5 below.

Note 2: Representations in support of the application received by the PA has been forwarded to the Board for its information

3. TECHNICAL REPORTS

Irish Water in a report dated **14/05/15** has no objection subject to conditions.

The **NRA** in a letter dated **14/05/15** states that it will rely on the PA to abide by official policy in relation to development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for PA's 2012. The **2nd** letter dated **09/07/15** following FI has no further comment.

Environment Section in a report dated **16/06/15** reviews the site suitability for effluent disposal and recommends a positive decision subject to conditions.

The **1st Planner's** report (undated) makes reference to permission granted for a cluster of three sites under 09/35 however this does not appear to pertain to the site. The proposed dwelling is considered to be acceptable at this location and would not detract from the visual amenities of the area. The mature roadside hedgerow will provide screening. It cannot be seen from the Ring of Kerry route to the south. The applicant complies with the settlement location policy for the area. The location of the proposed access onto the private lane is not ideal as it is on a bend and its repositioning is recommended. The private road is in very poor condition. Proposals to upgrade same should be sought. Relocation of the dwelling closer to the family dwelling so as to avoid a future potential infill site is recommended. A request for FI is recommended. The **2nd report** following FI notes that the site has been changed so that it is closer to the western boundary of the site and to the existing farm house on the landholding. It is not possible to move the development site closer due to the overhead power line. The position of the vehicular access has been changed so that adequate sightlines are achieved whilst the ongoing maintenance of the private roadway has been clarified. A grant of permission subject to conditions is recommended.

4. PLANNING AUTHORITY'S DECISION

The PA decided to grant permission for the above described development subject to 14 conditions. Of note:

Condition 6: Occupancy clause for a minimum period of 7 years.

Condition 7: Dwelling to be used as permanent residence and not to be used as a holiday home.

Condition 8: Vehicular access to be located as shown on site layout plan submitted 01/07/15. The new walls to be constructed in sod and stone or native stone. Wing walls forming the entrance shall be erected to a height of not more than 1 metre over

existing road level and shall be splayed at an angle of 45° to the line of the front fence.

Condition 11: Comprehensive landscaping scheme to be submitted to PA prior to commencement of development.

5. GROUNDS OF APPEAL

The submission by Diarmuid Mangan & Associates on behalf of the appellants which is accompanied by supporting detail, can be summarised as follows:

- Access is from a private lane which has not been taken in charge by the County Council. Most of the lane is in the ownership of Ms. Cronin's parents. The road is in a poor and unsafe condition.
- The lane serves 6 dwellings and 2 farms
- Adequate sightlines are not available presenting a traffic and road safety hazard. Condition 11 requires the hedgerow to be retained.
- Sightlines at bends along the private road are inadequate with no identifiable passing bays. At a width of 3 metres the lane is not sufficient and does not meet minimum requirements.
- Sight lines at the junction to the public road are inadequate.
- There is an inadequate camber/cross fall on the road to allow rainwater runoff.
- A further dwelling would further exasperate the hazards on the private lane and constitutes haphazard and unsustainable development.
- The connection to services will result in the lane being dug up with further deterioration and increasing of hazard.

6. APPLICANT'S RESPONSE TO GROUNDS OF APPEAL

The issue of the lane is a matter between the residents along same and the landowners. The applicants do not have title over the lane. They have been gifted the site and consent to access same via the lane from the landowners (applicant's parents).

7. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION

No response received

8. OBSERVATIONS

None

9. RELEVANT PLANNING HISTORY

08/1655 – permission granted to Paul Keogh and Sheila Cronin for a dwelling and effluent treatment plant on a site to the west of existing farm house.

10. DEVELOPMENT PLAN PROVISIONS AND POLICY GUIDANCE

10.1 Kerry County Development Plan 2015 -2021

Section 3.3.2.2. – The site is within an Area of Secondary Special Amenity. Such areas constitute sensitive landscapes which can accommodate a limited level of development.

As per Table 3.7 applications for dwellings in such a zone will only be considered from applicants from the following categories:

- Sons and daughters of the traditional landowner, or favoured niece or nephew, the land being in the ownership of the family for in excess of 10 years while being the location of the principal family residence or
- The applicant shall demonstrate a genuine rural employment need or
- The applicant's family shall have lived in the immediate locality prior to January 2003 with the applicant having been reared in the locality.

Objectives RS-1 – RS-6 relate to the general provisions in terms of rural housing policy.

The area is also identified as being under Strong Urban Pressure. In such areas:

Objective RS-7 – ensure that favourable consideration is given to individual one off house developments for immediate family members (sons, daughters or favoured niece/nephew) on family farms and landholdings, subject to compliance with normal planning criteria and environmental protection characteristics.

Objective RS-11 – to consolidate and sustain the stability of the rural population and to promote a balance between development activity in urban areas and villages and the wider rural area.

12. ISSUES AND ASSESSMENT

I consider that the issues arising in the case can be assessed under the following headings:

1. Compliance with Settlement Location Policy
2. Access and Traffic
3. Effluent Disposal
4. AA - Screening

12.1 Compliance with Settlement Location Policy

As per the current County Development Plan the site is within an area identified as being under strong urban influence. In view of its proximity to the town of Killarney, the scenic amenities afforded the general area and the extent of one off housing facilitated in the vicinity to date this designation is considered to be entirely reasonable. Concurrently the site is within an area designated as being of Secondary Special Amenity Value. In view of the amenities afforded the area especially in views to the south this designation is also considered reasonable. Both designations set out specific requirements for rural housing provision. In both instances housing need arising from children of landowners would be open to favourable consideration.

Ms. Cronin Griffin is the daughter of the landowners and currently resides in the farm house c. 60 metres to the west of the appeal site. From the details provided in the supplementary information form accompanying the application her parents address is given as Gortacollapa although it is unclear as to the location of their residence. I note that their address as given on the previous application by another daughter under ref. 08/1665 on a site immediately to the west of the farmhouse was Dromkerry, Killarney, which is a townland to the north of the current appeal site. The details of the family landholding provided in support of the application includes lands at Gortacolopa and at Grenagh to the south of the N72.

Whilst the applicant appears to meet the criteria for favourable consideration the actual need for a new dwelling is queried. The fact that the applicants are already resident in a dwelling on the landholding is worthy of consideration and whilst the dwelling may not meet their desired requirements consideration should be given to the potential for its upgrading and extension. This has not been assessed in any detail. This, in my opinion, is insufficient. In the context of the location within an area designated as being under strong urban influence and of amenity value coupled with the need to protect the amenities of the area which exhibits a material level of one off housing, I consider that the potential for (or indeed lack of) adaptability and extension of the existing dwelling needs to be fully investigated at the outset.

As such to facilitate a further dwelling at this location without a full examination of the alternatives available would run contrary to the development plan provisions and the need to protect the rural and scenic amenities of the area. The level of one off housing evident in the area is of particular concern. I am of the opinion that taken together with existing development the proposal would result an unacceptable density of development and would exacerbate and consolidate a trend towards the establishment of a haphazard pattern of housing and would lead to an erosion of the rural and landscape character of this area. It may also lead to demands for the uneconomic provision of further public services where these are not proposed.

As this constitutes a new issue the Board may wish to circulate same to the relevant parties for comment.

12.2 Access and Traffic

The substantive issue arising in the appeal is the adequacy of the access arrangements. Access is via a private cul-de-sac lane c. 650 metres in length and which provides access to 6 dwellings with a 7th at the junction with the local road which also avails of access from the lane. The lane also serves two farmholdings. Its width is insufficient to allow for two way vehicular movements and on day of inspection was noted to be in poor condition.

I would concur with the applicants that the issue of the condition of the private lane is a civil matter between the relevant parties and is not a matter for comment by the Board. However its adequacy to accommodate a further dwelling with specific reference to the adequacy of its junction with the local road is of concern.

The lane intersects with the local road at two points to either side of the dwelling that fronts onto the local road. The said local road is relatively well trafficked and connects the N72 to the south and the R563 to the north. The 80kph speed limit applies. In addition the level of one off housing along the road is particularly marked.

In terms of the southern most intersection the alignment and sight lines in a northerly direction were noted to very poor whilst sightlines in both directions at the northern most intersection are restricted. I consider that to allow for further vehicular movements at these junctions would give rise to a traffic hazard. I therefore recommend refusal in this regard.

12.3 Effluent disposal

As per the Site Characterisation Form a T-value (modified method) of c.52.76 was recorded and is reflective of poor site drainage conditions. As a consequence an

effluent treatment system with polishing filter is proposed. In view of the existing development in the vicinity of which no details are provided in terms of the effluent disposal systems in each instance, I would have reservations as to the concentration of systems in an area which has poor percolation qualities. Concurrently I submit that the proposal could be considered to run counter to the recommendations of the Rural Housing Guidelines which states that new development should be guided towards sites where acceptable wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities. I consider that the proposal should only be accepted where an essential housing need has been established and that absolutely no other alternative means to meet their requirements can be identified. As detailed above I do not consider that this has been substantiated in this instance.

12.4 AA – Screening

The site is c. 1.2 km to the north-east of the nearest point of the Castlemaine Harbour SAC (000343). The site is located c.200 km to the south of Douglasha Stream which flows into the SAC 1.8km to the south-west. The qualifying interests include a number of habitats and species that are water quality dependent.

The proposal would not have a direct impact on the designated site. Taking into consideration the small scale nature of the development as proposed and the relative separation between the sites, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and in particular specific site number 00343 in view of the site's conservation objectives. An appropriate assessment (and submission of a NIS) is not therefore required.

12. CONCLUSIONS AND RECOMMENDATION

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations:

REASONS AND CONSIDERATIONS

1. The appeal site is located in a rural area under strong urban influence and considered to be of Secondary Special Amenity as identified in the current Kerry County Development Plan wherein it the policy of the Council to restrict housing development to certain limited categories of applicants. Based on the information submitted with the application and taking into consideration the nature and extent of the existing property in the vicinity in the applicants' family ownership, the Board is not satisfied that the applicants have demonstrated a need to construct a new dwelling at this location and that the applicant's needs cannot be met within existing accommodation. The proposed development would, therefore, contravene materially the provisions of the Plan with regard to the provision of sustainable rural housing and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the additional vehicular movements that would be generated at the intersections of the private laneway onto the local road where the 80kph speed limit applies and where sight distances are restricted would give to rise to an increase in conflicting vehicular movements and would therefore endanger public safety by reason of traffic hazard.

Pauline Fitzpatrick
Inspectorate

December, 2015