

An Bord Pleanála



Inspector's Report

Reference: PL92.245692

P.A. Reference: 15/600701

Title: Retention of a permeable access road and all associated works.

Location: Park Grange, Clonmel, Co. Tipperary

Applicant: Dan Casey

Appellants: John and Ita Carrigan plus others

Observers: None

PA: Tipperary County Council

Type of Appeal: Third party against grant

Decision: Permission granted with one condition

Date of Site Visit: 17th February 2016

Inspector: Philip Davis

1. Introduction

This appeal is by local residents against the decision of the planning authority to grant permission for a permeable track on agricultural land in the village of Park Grange in Tipperary. The main grounds of appeal is that the appellants argue that the road is to facilitate further unauthorised developments on the lands, and that it will lead to flooding.

2. Site Description

Photographs of the site and environs are attached in the appendix to this report.

Park Grange, Clonmel, County Tipperary

The village of Grange (sometimes known as Park Grange after the townland) in Tipperary is located within the rich limestone grazing and pasture lands between Clonmel and Caher. It is approximately 10 km by road from Clonmel to the east and about 11km by road from Caher to the west. The area is generally lightly populated agricultural lands, including dairying operations and some horse studs.

The village appears to be a 19th Century 'crossroads' settlement, having developed around a catholic church and graveyard built in 1820 where two third class roads meet (this church now seems to be used primarily as a community hall). The village is dominated by the church, with a small scattering of older buildings running south (including one small shop), a small estate of mid-20th Century houses opposite the church to the west, a school on separate lands some 300 metres east, and a small estate of detached houses next to the school, in addition to a random scattering of individual dwellings along the roads running into the village.

The site and environs

The appeal site, with a site area given as 0.62 hectares, is a flat agricultural field, rectangular in shape, located immediately east of the church. It is grassed, with a gated access to the adjoining road (Park Road). A rough track, approximately 4 metres in width, runs along the northern and eastern side of the field, terminating at a gap leading to a field to the south-east. The site is bounded by ditches and hedges, with a masonry wall separating it from the church/graveyard. The site is part of a larger landholding which includes fields to the south-east.

North of the site is the third class road running east from the village centre. This is a typical such country road, although straight and relatively wide. There are open fields further north.

West of the site is the church and graveyard – south of the church are some older residential and commercial buildings facing the third class road running south through the village.

South of the site are open fields.

East of the site are fields. There is a large dwelling 160 metres to the west, with the school next to this.

3. **Proposal**

The proposed development is described on the site notice as follows:

Retention permission for a permeable access road and all associated works.

4. **Technical Reports and other planning file correspondence**

Planning application

The planning application, with supporting documentation and a flood risk assessment was submitted to the planning authority on the 11th August 2015.

Internal and External reports and correspondence.

A letter of objection from the appellants to the appeal is on file.

The **Habitats Directive Screening Report** on file indicates that the nearest Natura 2000 sites are the Lower River Suir SAC within 2.5 km and the new Valley Woodlands SAC within 15 km of the site. It is concluded that there is no potential for significant effects, therefore AA is not required.

District Engineer: It is noted that the surface level of the roadway is at the existing green field level and the roadway is permeable. It is not considered that it will cause any additional flood water to run onto the adjoining road. It is stated that pluvial flooding is a regular problem in Grange, but that water from this field is not the source of the problem.

Tipperary CC Planners Report: Notes two refusals for outline permission for dwellings on the site, and an active application for a dwelling on adjoining lands to the east/southeast (this was subsequently refused). A warning letter had been served regarding the roadway. It is noted from the response from the District Engineer that pluvial flooding is a known problem in Grange. The relevant zoning designation is 'village centre', the objective of which is to enhance and/or to provide for village facilities, with a specific development objective DO3. It is considered that the track is a farm roadway which

is not vulnerable to flooding and which is a reasonable development in the context of the use of the lands. It is not considered that it would contribute to flooding. A grant of permission is recommended.

5. Decision

The planning authority decided to grant permission subject to one standard condition.

6. Planning Context

Planning permissions – appeal site

In May 2010 the planning authority decided to refuse outline permission for 4 no. dwellings on the site and additional lands to the south-east for three reasons – two related to flooding, one relating to uncoordinated and piecemeal development of the site (**10/122**). In April 2015 outline planning permission for a dwelling, garage, stables etc., on the same overall lands was refused for three reasons – 2 for flooding, one for the failure to submit for agreement a masterplan for development (**15/600155**). Similarly, outline planning permission for a dwelling on the landholding was also refused in April 2015 for the same reasons (**15/600161**).

Planning permissions – adjoining areas

In 2002 the Board, on appeal, refused permission for a development of 21 dwellings on lands c. 250 metres east of the site (next to the school) for reasons relating to piecemeal development and flooding (**PL23.130123**).

Development Plan

The site is zoned as 'Village Centre' in the Grange zoning plan – the village of Grange is indicated as a 'settlement node' in the South Tipperary County Development Plan 2009 (as varied). The adjoining church is a protected structure.

Relevant extracts from Development Plan are attached in the appendix to this report.

7. Grounds of Appeal

- It is argued that the site is subject to flooding (pluvial) and run-off from the lands threatens nearby homes and lands.
- It is argued that the track is intended to facilitate development – it is noted that there have been three previous refusals.

- It is argued that no further developments should be permitted in the village until the flooding issues are resolved.

8. Planning Authority's Comments

The planning authority has not responded to the grounds of appeal.

9. Applicants response

No response on file.

10. Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following headings:

- **Principle of development**
- **Flooding**
- **Appropriate Assessment and EIA**
- **Other issues**

Principle of Development

The site is zoned for 'village centre', which is a general zoning for any type of development deemed suitable for a village, including retail, services or residential. The site has no municipal treatment plant – there is one treatment system for the housing scheme to the west. The village plan indicates that there are issues with water supply. The specific development objective for the site (DO3) states that the Council will seek an element of streetscape along the northern boundary and the provision for land for an extension to Grange Community Hall.

There are a number of records on file of refusals of permission on the site and the overall landholding – generally for flood related reasons and the piecemeal nature of the proposals. The Board refused a larger development on the edge of the village for flood related reasons in 2002.

The nature of the proposed development is open to question. The appellants argue that its purpose is to facilitate unauthorised developments. It does indeed in part follow the alignment of accesses indicated in the previous refused developments, and its dog-leg shape is not typical of a farm access track, which would normally be direct. Notwithstanding this, the track is flush with the surrounding grass and does not seem adequate for a residential development access (unless it was surfaced and drained) and so I consider it reasonable to regard it

as a farm access for the purposes of this application. A grant of permission for it as described on the site notice would not, in any way, prejudice any future application for development on the site.

The track is barely visible from outside the site and has no other implications except possibly flooding (which I will discuss below). I would therefore consider that it has no policy implications as submitted, although I would recommend that a condition be set confirming that its use is restricted to agricultural use only in the absence of any other permission.

Flooding

The area is not indicated on the OPW website as prone to flooding, and I observed no issues during my site visit (after a period of very intense rain over a number of days). However, it is indicated on file that the District Engineer considers that there is a known problem with pluvial flooding in Grange – the flood report submitted by the applicant indicates that just one property has been affected. There are no watercourses in the village or close to the site, and the local fields do not have vegetation indicating poor percolation characteristics, so I assume this problem is related to a combination of local topography and a possible high and fluctuating water table (the lands overlie karst limestone).

The track is made up of rubble, apparently construction waste material – it contains a mix of materials including crushed rock and concrete and pottery. I would concur with the comments of the district engineer that it probably has better percolation characteristics than the surrounding grassland, although over time infiltration of finer material could reduce this – but I consider that it would still be unlikely to have worse percolation characteristics than the existing soil level, unless the subsurface was compacted during the works.

I would consider that the track as laid would have no implications on or off-site for flooding. I would have strong concerns if it was to be sealed or surfaced – additional drainage would be required in order to prevent run-off to the adjoining road.

Appropriate Assessment and EIA

The closest European site is the Lower River Suir SAC (site code 002137), which lists under conservation objectives the need to protect a variety of species (such as the freshwater pearl mussel and lamprey) which require high water quality. The designated area is about 2.6 km to the east of the appeal site and the site is within the overall Suir catchment. There are no watercourses on or adjoining the site. The underlying water table appears high and the aquifer is indicated as of extreme vulnerability, and there are karst features (including a swallow hole) in the area. Any potential pathway for pollution would therefore most likely be via groundwater. Notwithstanding this, having regard to

the nature of the development and its small scale, I would not consider that there is any potential for pollution or other impact arising. I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans are projects, would not be likely to have a significant effect on European Site no.002137 or any other European site, in view of the sites Conservation Objectives, and thus a Stage 2 Appropriate Assessment and NIS is not required.

Due to the small scale of the proposed development and the absence of any sensitive environmental receptors in the area the question of a requirement for EIA does not arise.

Other issues

There are no recorded ancient monuments on or adjoining the site. The adjoining church is a protected structure, but I do not consider that there are any implications for the setting of the church. I do not consider that there are any other planning issues raised by the appeal.

11. Conclusions and Recommendations

I conclude that the proposed development would not constitute a flooding hazard and would otherwise be in accordance with the proper planning and sustainable development of the area.

I recommend therefore that subject to the conditions set out below, planning permission for the retention of the permeable access road be granted for the following reasons and considerations.

REASONS AND CONSIDERATIONS

Having regard to the scale, alignment, and permeable nature of the access road and the agricultural use of the site and adjoining lands it is considered that subject to the conditions set out below the proposed development would not result in a flood hazard and would otherwise be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with

the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The access road is to be used as ancillary to the lands agricultural use only in the absence of planning permission for other uses. This permission shall not be construed as a grant of permission for any other uses on the site. The track shall not be paved or sealed without benefit of planning permission.

Reason: In the interest of clarity.

Philip Davis,
Inspectorate.
22nd February 2016