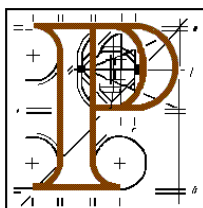


## An Bord Pleanála



## Inspector's Report

**Development:** Six houses, and all associated site works including connections to the public sewer at Knoppogue, Fossa, Killarney, Co. Kerry.

### Planning Application

Planning Authority: Kerry County Council

Planning Authority Reg. Ref.: 15/449

Applicant: Caroline Fleming

Type of Application: Permission

Planning Authority Decision: Outline Permission

### Planning Appeal

Appellant(s): An Taisce

Type of Appeal: Third Party V Grant Outline Permission

Observers: None

Date of Site Inspection: 3<sup>rd</sup> May 2016

**Inspector: Kenneth Moloney**

## **1.0 SITE DESCRIPTION**

The appeal site is located in a rural area situated approximately 1km from the Fossa Village and located approximately 7km from the centre of Killarney. The immediate area / context of the appeal site is characterised by sporadic rural housing and agricultural land.

The size of the appeal site is approximately 1.81 ha (4.47 acres) and the shape of the appeal site is irregular. The appeal site is situated behind the rear boundaries of two established houses. One of the established houses is single storey in height and the second house is two-storey in height. The western boundary of the appeal site adjoins the regional road (R563). There is an established agricultural field gate along the western boundary with access onto the regional road.

The appeal site is currently used for agricultural purposes. The gradient of the appeal site falls gently from the public road and then rises to the centre of the site before falling gently towards the eastern boundary of the appeal site. The rolling topography of the site is a notable feature of the appeal site.

The eastern boundary comprises of hedgerow with mature trees. The northern boundary comprises of 1 metre high post and wire fence and this boundary adjoins a neighbouring agricultural field.

## **2.0 PROPOSED DEVELOPMENT**

The proposed development is for outline planning permission for 6 no. dwelling houses and all associated site works including connections to public sewers. The proposed vehicular access to the serve the proposed development is onto the regional road (R563).

Additional information sought for the following;

- a. Full details of the sewer connection required
- b. Details of adequate sightline provision
- c. The Planning Authority has concerns with layout, density and number of dwellings proposed. The applicant is requested to liaise with the Planning Authority prior to submission.

## **3.0 PLANNING AUTHORITY'S DECISION**

The Planning Authority decided to grant outline planning permission for 4 no. dwellings subject to 14 conditions. The conditions are generally standard for the nature of the proposed development.

Internal Reports:            There are four internal reports on the file:

- Housing; No objections although clarification sought on a number of issues.
- Bio-diversity Officer; Best practices in environmental management shall be undertaken of construction works and mature vegetation on all site boundaries shall be retained.
- County Archaeologist; Having regard to the scale of development pre-development testing shall be carried out.
- Executive Planner; The local area has not been identified as being at risk of flooding.

Objections: There is an objection from An Taisce who state that the proposed development is detached from village settlement and is an extension of ribbon development. The issues raised have been noted and considered.

Submissions: There is a submission from Irish Water, who have no objections. There is a submission from the Department of Arts, Heritage and the Gaeltacht who recommend that the development be subject to an Archaeological Assessment. There is also a submission from the IFI who have no objections subject to good construction practice.

#### **4.0 PLANNING HISTORY**

- No recent relevant planning history.

#### **5.0 DEVELOPMENT PLAN**

The operating development plan for the appeal site is Tralee / Killarney Hub Functional Local Area Plan, 2013 – 2019.

The appeal site is located within the development boundary of Fossa Local Area Plan.

The development strategy for the village is as follows;

- ensure that future development should support the existing role and function of the village
- protect existing trees and promote planting
- facilitate the sustainable development of walking and cycling
- encourage the sustainable expansion of the village
- support the village as rural service centre small tourist village
- Ensure that bio-diversity interests are protected

## **6.0 GROUNDS OF APPEAL**

An Taisce lodged an appeal and the grounds of appeal are summarised as follows:

### Location

- The site is located on the outskirts of Fossa village beside the R563.
- There are a considerable number of houses in the area.
- The proposal overlooks rear gardens.

### Visual Impact

- There will be a visual impact and it is considered that even four houses are excessive.
- The proposal will encourage more of this type of development away from the centre of the existing settlement.
- As a tourist route development in this vicinity needs to be kept to a minimum.

### Traffic Safety

- The R563 is a tourist route and the number of vehicular entrances needs to be kept to a minimum.
- The Killarney to Dingle route along the R563 is a popular tourist route.

### Flooding

- The site dips below the level of the public road.
- The site has flooded in the past.
- On one occasion the flooding resulted in excess water to overflow and run down the public road, causing damage to road surface.
- The development will increase the area of impervious surfaces on site and the proposed soakways will have insufficient capacity during times of high rainfall.

## **7.0 RESPONSES**

The applicant has submitted a response outlining personal details and the necessity for the proposed development. The following is a short summary of the response submitted by Caroline Fleming;

- The applicant is separated after 28 years of marriage.
- The applicant left the family home and has no ownership rights to the family home.
- As part of the separation agreement the applicant obtained 4.5 acres at Knappogue.
- The applicant now lives with her son who suffers from a severe communication disorder.
- The applicant is struggling financially to pay monthly rent.
- The applicant is hoping to establish a home for herself and her son so that she can have peace of mind.

## **8.0 ASSESSMENT**

The main issues to be considered in this case are: -

- Principle of Development
- Impact on Residential Amenities
- Access
- Flood Risk
- Services
- Appropriate Assessment

### **Principle of Development**

Fossa is a small rural village situated approximately 7.2 km from the centre of Killarney. The primary function of the village is tourism serving visitors to the local area.

The appeal site is located within the development boundary of the Fossa LAP in accordance with the provisions 'Tralee / Killarney Hub Functional Local Area Plan, 2013 – 2019'. The applicant initially sought outline permission for six dwellings however following a request for additional information by the Local Authority the applicant submitted a revised site plan containing four houses. The local authority granted planning permission for 4 no. dwellings.

The development, as permitted, would in my view have the appearance of a small holiday home development or a small suburban housing development. Having regard to the local context which is predominately rural I would consider that the proposed development is distinctly different from the established form and pattern of development in the immediate area. Nonetheless the appeal site is located within the development boundary of the Fossa LAP, 2013 – 2019.

The centre of Fossa village is possibly adjacent to the N72 where there is a concentration of Bed & Breakfasts. The overall residential density of Fossa Village is low and in general the residential units within the village comprise of individual houses on large sites. The appeal site is situated approximately 1km – 1.5km from the centre of the village and access from the appeal site to Fossa Village is along the regional road (R563). This regional road has no provision for pedestrians or cyclists and the speed limit for the regional road adjacent to the appeal site is 80kph.

In considering the subject development I would have regard to both national policy and guidelines. The National Spatial Strategy sets out a 20 year vision for the spatial development of the country designed to achieve more balanced social, economic and physical development between the regions. One of the key approaches taken by the N.S.S. in order to achieve balanced regional development is set out in Section 1.1 (iv) 'Planning' of the N.S.S. which states that '*Ireland needs to renew, consolidate and develop its existing cities, towns and villages – i.e. keeping them physically compact and public transport friendly as possible and minimising urban sprawl, ..... Where greenfield*

*development is necessary it should take place through the logical extension of existing cities, towns and villages*'. The National Spatial Strategy encourages more sustainable development which will mean maximising access to and encouraging use of public transport, cycling and walking.

In general terms the strategy of the N.S.S. is to consolidate urban areas whether they are gateways, hubs, county towns or small towns. A principle of the strategy is the locating of development within existing urban centres which would support and strengthen the development of that urban centre and allow for integrated mixed-use development which would reduce demand for unsustainable transportation modes and which would invigorate and revitalise demand for local services within the centre.

I do not consider that the applicant has adequately demonstrated the inherent advantages of locating the proposed residential development in an edge of village location, effectively in a rural location, considering that there are infill sites available closer to the village centre. Accordingly I would consider that the proposed development would be inconsistent with the principles of the National Spatial Strategy which seeks to maximize access to and encourage the use of public transport, cycling and walking in facilitating future development and which also seeks to reinforce the key roles of larger and smaller towns and villages in achieving balanced regional development.

Section 5.3.1 of the N.S.S. outlines that sustainable provision of housing in urban areas involves concentrating development in optimum locations, mixed-use and higher densities in town centre locations, and *'the efficient use of land by consolidating existing settlements, focussing in particular on development capacity within central urban areas through re-use of under-utilised land and buildings as a priority, rather than extending green field development'*. It is also encouraged that housing development in or at the edge of villages and small towns is of a quality standard in relation to character, scale and layout and related to the character and form of the small settlement.

Section 6.7 of the Sustainable Residential Development in Urban Areas Guidelines, 2009, advise that the overall order and sequencing of development of small towns and villages must avoid significant so called 'leap-frogging' where development of new residential areas takes place at some remove from existing contiguous town / village and leading to discontinuities which militates against proper planning and development. The development plan guidelines, 2007, advocate a sequential approach in terms of designation to avoid a haphazard and costly approach to the provision of social and physical infrastructure.

The Fossa Local Area Plan sets out its development strategy and a key component of this strategy is to encourage sustainable expansion which is consistent with the principles of the National Spatial Strategy and the Sustainable Residential Development in Urban Areas Guidelines, 2009.

Based on the above national policy and national guidelines I would have concerns with the proposed development given both the established

agricultural use of the site which is located on an edge of village location where there is, in my opinion, availability of land closer to the village centre that could easily accommodate residential development of the size and scale proposed. Permitted development such as that proposed on agricultural lands blurs the distinction between urban and rural land uses and if permitted would set an undesirable precedent for other such appropriate developments on agricultural lands. The proposed development, in my view, would be contrary to the principles of the National Spatial Strategy and the Sustainable Residential Development in Urban Areas Guidelines, 2009, and therefore would be contrary to the proper planning and sustainable development of the area.

### **Impact on Residential Amenities**

The proposed development, as permitted by the local authority, provides for four houses. These four houses are situated to the back of two established houses which face onto the regional road (R563). I noted at the time of my site inspection that these established houses have limited screening along their rear boundaries and therefore there is potential for overlooking from the appeal site.

The layout of the proposed development provides for the front orientations of the proposed houses to look towards the rear boundaries of the established houses. As such overlooking of established residential amenities is a genuine concern. Furthermore the topography of the appeal site ensures that the proposed houses are situated at a higher level than the two established houses to the south.

In accordance with the submitted layout plan there are two houses proposed within 35 metres of the rear elevation of the westernmost established house. Although this set-back distance is a sufficient distance for back-to-back dwellings the proposed layout is not standard back-to-back development as the front elevations of the proposed houses will directly overlook into the rear gardens of the established houses.

I would conclude, having regard to the topography of the site where the proposed houses are situated at a higher level than the established houses and the separation distances including the inadequate screening that the proposed development, would adversely impact on the established residential amenities, by reason of overlooking.

I would consider having regard to the layout of the proposed development and the proximity of the proposed development on an elevated site to the neighbouring site to the south, that the proposed development would constitute overdevelopment, would result in overlooking of adjoining properties in an area that is rural in character. The proposed development would therefore set an undesirable precedent in the area, would seriously injure the amenities of the property in the vicinity and would therefore be, contrary to the proper planning and sustainable development of the area.

## **Access**

The proposed development will be served by a vehicular entrance onto the regional road (R563). This regional road has a speed limit of 80kph and submitted layout plan outlines a sightline provision of 150m in either direction.

I would note from the NRA publication 'Design Manual for Roads and Bridges', 2009, that the 'y' distance on a major road with a design speed of 85kph is 160kph.

I would therefore concur with the local authority and consider that proposed vehicular access is adequate to serve the proposed development.

## **Flood Risk**

The appeal submission states that the site is known to flood. It was notable that the ground conditions of the appeal site were soft at the time of my site inspection however there was no evidence of pooling.

There is an internal report on the file from the Executive Planner which states that the appeal site has not been identified under the Catchment Flood Risk Assessment and Management Study (CFRAM) as being at risk of flooding. The report also states that the existing topography allows for natural flow from the appeal site towards Lough Leane.

In general I would concur with the report from the Executive Planner and I would consider that concerns raised by the appellant could be addressed by conditions, should the Board favour granting permission.

## **Services**

The proposed development shall be severed by public water mains and public sewage mains. The services for the proposed development are therefore acceptable.

## **Appropriate Assessment**

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

## **9.0 RECOMMENDATION**

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that outline planning permission be refused for the reasons set out below.



## REASONS AND CONSIDERATIONS

1. Having regard to the scale and layout of the proposed development and the close proximity of the proposed residential development, situated on an elevated site, to the boundaries of established residential properties to the south, it is considered that the proposed development would constitute overdevelopment, would result in overlooking from the residential units of adjoining properties. The proposed development would therefore set an undesirable precedent in the area, would seriously injure the amenities of the property in the vicinity and would therefore be, contrary to the proper planning and sustainable development of the area.
2. The proposed development which provides for residential development on a greenfield site would be contrary to the National Spatial Strategy, 2002 – 2020, and the Sustainable Residential Development in Urban Areas Guidelines, 2009, where it is the objective to consolidate urban areas and minimise urban sprawl. The proposed development would give rise to the “leap-frogging” of zoned lands closer to the village centre and would also give rise to unsustainable forms of commuting that would be contrary to the National Spatial Strategy which seeks to maximize access to and encourage the use of public transport, cycling and walking in facilitating future development and which also seeks to reinforce the key roles of larger and smaller towns and villages in achieving balanced regional development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Kenneth Moloney  
Planning Inspector  
25<sup>th</sup> May 2016