



An
Bord
Pleanála

Inspector's Report PL09.247019.

Development

Permission for demolition of existing bungalow, cottage & outbuildings. The construction of 3 single storey commercial units and 15 dwellings, pedestrian access to Abbots Wood and all ancillary site works.

Address:

Kilbeg, Kildangan, Co Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

15/555.

Applicant(s)

Soroban Limited.

Type of Application

Permission.

Planning Authority Decision

Grant Permission with conditions. .

Appellant(s)

1. Michael Higgins
2. Kildangan Community Development Association.

Observer(s)

Francis Corr & Elizabeth Forde.

Date of Site Inspection

30th October 2016

Inspector

Bríd Maxwell.

1.0 Site Location and Description

- 1.1. The appeal site is located centrally within the village of Kildangan which is approximately 5km to the southeast of Monasterevin and 10km from Kildare in southwest County Kildare. Kiladangan Village is situated on the R417 Monasterevin to Athy Regional road and is also traversed by the Kildare to Athy railway line. The village straddles the rail line with the Church and school located to the northeast of the village while the Crosskeys Pub, a petrol filling station and shop a takeaway and a number of vacant retail units are located to the south west of the village. The village hall is located centrally close to the railway bridge. Residential development within the village takes the form of one off houses and various housing developments a number of which have been developed in the recent past.
- 1.2. The appeal site has a stated area of 1.5 hectares and includes a disused bungalow type dwelling, the former post office building and a number of disused derelict structures. The structures on site appear to have been unoccupied for a number of years and the site is significantly overgrown. The site is relatively flat and is elongated in shape with mature trees and hedging to site boundary boundaries whilst a mature hedgerow also runs centrally from north to southeast through the site. Abbots Wood a relatively recent housing development of single storey detached dwellings adjoins to the west and there is a single dwelling on a large site to the east with the former telephone exchange building also located at the road front to the east. The village hall is located to the east of the dwelling. The railway line runs north west south west to the east of the site,. The Oghill stream flows in an open channel watercourse from north west to south east circa 30-45m east of the site and is culverted under the railway line to the south east of the site. Mature single storey residential cottages front onto the appeal site opposite to the north.
- 1.3. Photographs of the appeal site and vicinity as well as annotated maps and aerial photos are included in the appendices to this report.

2.0 Proposed Development

- 2.1 The initial application sought permission for demolition of an existing bungalow, cottage and outbuildings and construction of one single storey commercial unit and

17 dwellings a mix of bungalows, dormers and two storey dwellings with pedestrian access to Abbots Wood and all ancillary site works. During the course of the application to the Council and specifically in response to the request for additional information the nature of the proposed development was revised to involve a proposal for 3 no commercial units and 15 dwellings. Revisions to layout, entrance location and design details were also incorporated.

2.2 I note a further revision to the layout submitted by the first party in response to the appeal. This layout takes account of the requirements of conditions imposed by Kildare County Council in the decision (Refer to Condition 2 at 3.1 below), and results in a development comprising 14 dwellings and three commercial units.

3.0 Planning Authority Decision

3.1. Decision

By order dated 6/7/2016 Kildare County Council decided to grant permission subject to 47 conditions which included the following of particular note.

- Condition 2. Prior to the commencement of development, the applicant to submit a revised site layout plan and details to include a reconfiguration of the northern portion of the site which currently includes the entrance car park, commercial units and houses 1-5. Revised proposals are likely to result in the omission of houses 1-4 and should include a reconfiguration of this area and will involve the omission of the two storey dwelling and replacement with single storey units.
- Condition 3. Revised site layout of overall site to provide for reduction in width of the estate road to 5.5m providing for additional rear garden lengths for dwellings along western part the site.
- Condition 14. Commercial units shall not be used as amusement arcade, funfair or gaming arcade. No gaming or video machines, No betting office, catalogue store or takeaway without prior grant of permission.
- Condition 30. Road Safety Audit Stage 2 prior to commencement of development.

- Condition 46. Development Contribution of €111,539.48 in accordance with the development Contribution Scheme. (Contributions calculations are appended to the Planner's report and are based on 15 dwellings and 3 commercial units)
- Condition 47 Special Contribution €72,000 in respect of works to the existing railway bridge. (Calculation set out in the Planner's report is based on a levy of €3,500 per dwelling as per Transportation Department Report)

3.2. Planning Authority Reports

3.2.1 Laois Heritage Officer's report recommends referral to conservation officer

3.2.2 Transportation Department initial report requested additional information including revised layout with provision for parking for terraced houses within the site curtilage and relocation of entrance to increase its distance from the established access opposite. Concerns were expressed regarding increased pedestrian movements over the railway bridge. Final report indicates no objection subject to conditions.

3.2.3 Water Services Section initial report sought further information required regarding surface water discharge.

3.2.4 Environment Section and Roads Department indicated no objection subject to conditions.

3.2.5 Initial report of area planner expressed concern regarding the detail and configuration of the proposed development and recommends the issue of a request for additional information to address a number of items.

3.2.6 A request for additional information issued raising concerns that the mainly residential scheme fails to comply with village centre zoning of the site. A detailed demonstration of compliance with Policy VRS6¹ was also requested. Revisions to the architectural design and detailing were recommended with provision for dual aspect dwellings active facades, an improved housing mix and improvements to open space, in curtilage car parking and relocation of entrance. Request also sought

¹ VRS⁶ is the objective to generally control the scale of individual development proposals to 10-15% of the existing housing stock of any village or settlement over the lifetime of the plan in accordance with the Sustainable Residential Development in Urban Areas Guidelines (2009).

detailed proposals to comply with Part V and servicing in terms of foul and surface water sewers. Comments were also sought regarding lack of pedestrian facilities on railway bridge

3.2.7 Final Planner's report indicates satisfaction with the proposal and recommends permission subject to conditions.

3.3 Other Technical Reports

3.3.1 Irish Water submission indicates no objection subject to conditions.

3.4 Third Party Observations

3.4.1 Submissions by Michael Higgins, owner of the adjoining residential property to the east. Submission indicates favourable consideration to the site being developed, however concerns arise regarding potential groundwater contamination, impact of public lighting, construction noise, waste, landscaping and boundary treatment. Further concerns arise regarding site encroachment. Naming of the development reflect the history of Kildangan and its hinterland.

3.4.2 Elizabeth Forde, Cornfield Cottage expresses concerns regarding the suburban character of the development. Site presents an opportunity to create village centre or focal point, and the stone outhouse on the site is worthy of conservation.

3.4.3 Francis Corr submission outlines concerns regarding design and layout and traffic safety.

3.4.4 Kildangan Community Development Association submission indicates positivity towards the site being developed however concerns arise in respect of the layout, traffic safety, site decontamination and adequacy of parking.

3.4.5 Derek and Marion Sherlock, residents of Abbots Wood concerns relate to landscaping, overlooking, anti-social behaviour and traffic hazard. Need for further housing development in the village is questioned.

3.4.6 Gary and Sharon Walsh Abbotts Wood. Development is out of character, overlooking, anti-social behaviour, loss of trees and hedgerows. Further housing development not necessary in the village.

4.0 Planning History

4.1 Appeal Site

08/1407 Refusal of permission for demolition of 2 existing houses and construction of 23 no two storey dwellings. Refusal reasons were on grounds of unsustainable development, suburban development.

4.2 Adjacent sites.

05/3074 Permission for 20 dwellings and ancillary site works.

01/1673 Permission for six four bed dormer houses, five three bed houses crèche and ancillary work.

05/2942 Permission for 7 no 4 bed detached dwellings and ancillary site works.

05/1301 Permission for six no dormer houses access road, footpath and associated site works.

00/2347 Permission for 15 no two storey detached dwellinghouses with garages, 9 detached bungalows with garages 8 three bedroom semidetached bungalows, 4 two bed semi-detached bungalows. Roads services and all ancillary works.

04/364 Permission granted for 35 bungalows and associated site works.

04/105 Application for 40 bungalows withdrawn.

5.0 Policy Context

5.1 Development Plan

5.1.1 The Kildare County Development Plan 2011-2017 refers. Kildangan is recognised as a designated village in Section 17.1 of the plan. Section 17 sets out the specific objectives and a land use zoning map for the village.

5.1.2 Map 17.10 identifies the lands as “A village centre”. The objective to provide for the development and improvement of appropriate village centre uses including residential commercial, office and civic use. The Development Plan notes that Kildangan has experienced significant population growth in recent years and as a result of the recent population growth and the moderate growth proposed in the plan, additional village centre lands have been zoned to facilitate a village centre expansion, which can accommodate additional services required in the village. The lands identified for village centre expansion may accommodate a quantum of residential development subject to the relevant planning criteria.

5.1.3 Objective VC1 is to provide for consolidation and an extension of Kildangan village centre. A range of appropriately designed and scaled retail, commercial, cultural, community and residential uses will be acceptable at these locations subject to the relevant planning criteria.

5.1.4 VC2 Any new village centre development should strive to provide a strong and architecturally attractive edge to the streetscape and should be pedestrian friendly.

5.1.5 The site is within an area which shall be subject to site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed.

5.1.6 I note the draft Kildare County Development Plan 2017-2020 which zones the northern / front portion of the site village centre while the southern / rear part of the site is zoned new residential.

5.2 Natural Heritage Designations

5.2.1 The River Barrow and River Nore SAC (Site Code 002162) is located approximately 2.5 kilometres to the west of the site.

6 The Appeals

6.1 Grounds of Appeal

6.1.1 The first third party appeal is submitted by Michael Higgins owner of the adjoining dwelling site to the east. Grounds of appeal are summarised as follows:

- Council failed to take concerns outlined third party concerns into consideration
- Site encroachment
- Potential for contamination of domestic well within 5m of the site boundary
- A 1.8m to 2m high palisade type fence should be provided to site boundary
- Note significant population increase from 268 to 740 between 1996 and 2016 with little or no investment in infrastructure.
- Development is premature pending railway bridge upgrade works.
- Significant natural hedgerow loss and proposed landscaping is inadequate and random.

6.1.2 The second third party appeal is submitted by Kildangan Community Development Association. Grounds of appeal are summarised as follows:

- Proposal does not meet the present or future needs of the village and does not accord with the vision set out in Chapter 17 of the Kildare County Council Rural Development Plan.
- No regard for extreme pedestrian hazard associated with railway bridge.

- Negative impact on adjacent residential amenity.
- Stone outhouses are worthy of preservation
- Application included erroneous information regarding services.
- Recent development has resulted in lack of coherence.
- Site provides final opportunity to create a definable civic centre for the village and public space and focal point for communal activities. Strategic location demands an imaginative and high quality solution.
- Third party rights impeded in Council's assessment of the application.
- Condition of the council that open space be retained for sole use by residents of the estate contrary to proper planning and sustainable development.

6.2 Planning Authority Response

6.2.1 The response on behalf of Kildare County Council from the Roads, Transportation and Safety Department is summarised as follows:

- Safety issues on Kildangan Railway Bridge for pedestrians are acknowledged. A cost estimate for a one way signalised shuttle system public lighting and a new footpath is attached.
- A Special contribution of €79,000 is recommended at a rate of €3,500 per dwelling and €6.500 per retail unit.
- Note that structural checks on the bridge are regularly carried out by Iarnród Éireann.
- Proposed entrance is designed as a staggered entrance to avoid existing entrances.

6.3 Other Party Responses

First Party Response to the appeal is submitted by Brian Connolly Associates Consulting Engineers and is summarised as follows:

- Reject allegations of encroachment. Note the boundary hedge is overgrown
- Proposed development will have a positive impact on water quality in terms of the removing existing septic tanks.
- Special development contribution payable towards improvement of safety on railway bridge
- Assessment of the application by Kildare Co Council was comprehensive and appropriate. Conditions address landscaping and boundary treatment.
- Site is zoned village centre in the Kildangan Village plan. Lands are serviced by public water supply and utilities. Design of the layout is appropriate.
- Request the Board to uphold the decision to grant.

6.4 Observations

6.4.1 Observations submitted by Francis Corr and Elizabeth Forde are summarised as follows

- Recent development demonstrates dearth of proper planning and sustainable development.
- 1999 Kildangan Village Study prepared by CAAS Environmental (copy appended to Observer's submission) recommended creation of focal points, a small communal park and walkway by the stream, renovation of an old store house and practical measures relating to footpaths and signage.
- Bridge is extremely hazardous to pedestrians and there is no certainty regarding implementation of upgrades.
- Barn building on the site is worthy of preservation.

- Availability of local services has been grossly overstated in the application in terms of amenities.

6.5 Further Responses to Cross Circulation of Appeal Submissions

6.5.1 Third Party Appellant's Michael Higgins in response to first party response maintains contention regarding site encroachment and reiterates concerns. Development is premature and falls short of the reasonable aspirations for high quality urban design or sense of community.

6.5.2 Observers Francis Corr and Elizabeth Forde note that the contribution of €79,000 recommended by the roads section would be less than 20% of the estimate of cost of works and there are no other sources of this funding identified and no timescale for these works.

7 Assessment

7.1 The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. I note that the third party appellants question the procedures adopted by the planning authority in relation to its assessment of the application, and the variation in nature of the development in the further information response. I note that the Planning Authority required submission of revised public notices in relation to the further information response and I have no reason to believe that third party rights were prejudiced in this regard. In any event procedural matters are beyond the remit of the Board.

7.2 As regards allegations of site encroachment onto third party property I note that boundary issues are civil matters which would not preclude a grant of permission. In this regard I would refer the parties to Section 34 (13) of the Planning and Development Act 2000 which states that "A person shall not be entitled solely by reason of a permission under this section to carry out any development."

7.3 The planning issues raised in the appeal can in my view be dealt with under the following headings:

- Principle of Development
- Quality of Design and Layout
- Traffic and Servicing
- Flooding
- Appropriate Assessment

7.4 Principle of development

7.4.1 As regards the principle of development, the site is zoned Village Centre Objective A to provide for the development and improvement of appropriate village centre uses including residential, commercial, office and civic use. The purpose of this zone is to protect and enhance the special character of the village centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing village. It will be an objective of the Council to encourage the use of buildings and backlands and especially the full use of upper floors. The size and scale of all new developments particularly retail development shall not be out of character with the already established village centre area.

7.4.2 As noted at Section 2.1 above, in response to the Council's request for additional information expressing concern that the largely residential scheme as initially proposed did not comply with the zoning objectives for the site, the detail of the proposed development was amended to increase the number of proposed commercial units from one to three. I note the submissions of the third party appellants and the observers who object to the composition of the proposed development questioning the need for further housing development in the village and asserting that the proposal misses a unique opportunity to create a village focal point or civic space for communal activities. I note the location of the village hall adjacent to the site and the lack of parking associated with same. I consider that the provision

of the commercial uses and associated car parking as proposed could complement this established use.

7.4.4 The objectives for the village centre acknowledge that the lands identified for village centre expansion may accommodate a quantum of residential development and I note that the viability for commercial use is clearly dependent on the creation of a critical mass. I would also observe that the draft plan shows an amendment to the zoning as the front / northern portion of the site is zoned village centre whilst the rear/southern part of the site is zoned new residential. I note the encouragement within the development plan for integrated proposals within town and village centres for example the promotion of the use of upper floors for living over the shop etc. Given the unique circumstances of the appeal site in terms of its scale and character, I consider that the site does indeed present an opportunity to create such an integrated proposal. I would have some concern regarding the disjointed nature of the commercial element of the proposal particularly in light of the current state of flux of retailing particularly in a village context. An integrated proposal would stand a greater potential to be sustained over time and the viability of the standalone commercial units in this context is questionable. However, I consider that the principle of development for mixed residential and commercial use is acceptable in principle and therefore consider that the focus for the assessment is on the detailed nature and character of the development.

7.5 Quality of Design and Layout

7.5.1 As regards the detailed design of the development I have a number of concerns I would tend to agree with the third party appellants that the proposal does not address the unique and attractive characteristics of the site which contribute to a sense of place. The appeal site has many attractive trees and hedgerows along the site boundaries and within the site and no attempt is made to address these and incorporate them within the proposed layout. As regards the architectural heritage impact, I note that the structures on site are not protected structures and are of no particular architectural merit. On the matter of the quality of the proposed design and layout I would have concerns that notwithstanding the attempts to create dual aspect and address the corner sites the impact on the streetscape is not a positive one. I

note that the development plan in accordance with national guidelines promotes a contemporary design approach with a building language that is varied and forward-looking rather than repetitive and retrospective. I do not consider that the proposed design approach innovates in any way in this regard. Given the unique and attractive characteristics of the site and having regard to its central village location I consider that this proposal represents a missed opportunity to innovate in terms of the design and layout.

7.5.2 Having considered the proposed layout and the site context, I consider that the proposal in terms of its composition and layout fails to adequately address the specific objectives within the development plan in relation to the enhancement of the special character of the village centre and the visual and ecological character of the area.

7.6 Traffic Safety

7.6.1 The Third party appellants assert that the development is premature pending the resolution of safety concerns and pedestrian hazard associated with the railway bridge. Having visited the site and reviewed the bridge the safety concerns are clearly evident. The combination of factors including the narrow carriageway width, lack of pedestrian footpath and limited driver forward visibility give rise to pedestrian vehicular conflict. I note that the Council have advanced a proposal for a one way signalised shuttle system with public light and footpath and a special development contribution was applied in this regard. I consider this to be a reasonable approach. As regards concerns raised in respect of multiple entrances and traffic movements arising from the proposed development, having regard to the village centre location and zoning of the site I consider the traffic arrangements to be reasonable and appropriate. I consider that the proposed development would not endanger public safety by reason of traffic hazard and I consider that the issue of traffic is not an impediment to development of the site.

7.7.1 Flooding

7.7.1 The site is within an area designated within the development plan as requiring a site specific flood risk assessment appropriate to the type and scale of development being proposed. A flood Risk Assessment by IE Consulting was included with the application. The assessment notes that the primary flood risk to the proposed site can be attributed to a fluvial flood event in the Oghill Stream which flows in an open channel watercourse from north-west to south east circa 30m-45m east of the site and is culverted under the railway line to the south east of the site. Consultation of OPW flood risk assessment mapping indicates a mapped flood zone in close proximity to the east and south-eastern boundary of the site. There are no historical incidents of flooding recorded in the vicinity of the site. The screening assessment provides analysis and assessment of the estimated 1 in 100 year and 1 in 1000 year flood events in the Oghill stream in the vicinity of the site. It is asserted that due to the topographical elevation difference between the appeal site the intervening lands and the channel elevation of the stream during flood events greater than 1 in 25 event any flood inundation due to surcharging of the existing culvert would be contained within the intervening lands. The calculated 1 in 100 and 1 in 1000 year flood volumes in the Oghill stream are not significant flood volumes and there is no foreseeable flood routing mechanism to indicate that any flood inundation on intervening lands would impact the appeal site.

7.7.2 On this basis the flood risk of the proposed development is deemed to be low. In the context of the Planning System and Flood Risk Management Guidelines DoEHLG 2009 and in consideration of the fact that no flooding within the boundary of the site is likely to occur, the proposed development site falls within flood zone C and therefore is not subject to the justification text for development management. The assessment recommends that houses are constructed with finished floor levels at a minimum of 0.3m above existing ground levels. I consider that having regard to the nature of the site and the scale of the proposed development and based on the submitted flood risk assessment the proposal addresses the issue of flood risk.

7.8 Other Matters

7.8.1 As regards servicing, technical reports on file raised no specific concerns in terms of public sewer capacity and public water supply. I note concerns raised in respect of

potential groundwater contamination arising from construction works and in relation to removal of existing septic tanks and underground fuel tanks. I consider that the removal of the existing tanks will represent a planning gain and potential for groundwater contamination can be appropriately, mitigated.

7.8.2 On the matter of appropriate assessment, the nearest Natura 2000 site is the River Barrow and River Nore SAC (Site Code 002162) which is located approximately 2.5 kilometres to the west of the site. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 RECOMMENDATION

8.1 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 planning permission be refused for the following reason.

REASONS AND CONSIDERATIONS

It is considered that the proposed development would fail to respond to the unique characteristics of the site, would not contribute to a sense of place making and would create a poor quality streetscape at this location. The proposed development would, therefore contravene materially the provisions of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

Brid Maxwell

Inspector

4th November 2016