



An
Bord
Pleanála

Inspector's Report PL.04.247432

Development	Construct house and site works.
Location	Clontead More, Coachford, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/5660
Applicant(s)	Darren Rooney & Mary Bridget Ennegrass
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Edward O'Riordan
Observer(s)	None
Date of Site Inspection	1 st December 2016
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located approximately 1km north of the centre of Coachford.
- 1.2. The site is currently an agricultural field however there are sporadic rural houses located with the general environs.
- 1.3. The gradient of the site slopes gently northwards towards a hedgerow to the north of the site.
- 1.4. There are overhead power lines that traverse the front of the site.
- 1.5. There are single storey houses located on the opposite side of the public road from the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises of a dormer bungalow with an overall floor area of approximately 270 sq. metres.
- 2.2. The floor plan of the ground floor comprises of living area, study and a bedroom and at first floor level there are 4 no. bedrooms proposed.
- 2.3. The proposed development also includes a detached garage with a floor area of approximately 44 sq. metres.
- 2.4. The proposed development includes vehicular access onto the adjoining regional road.

3.0 Planning Authority Decision

- 3.1. Cork County Council decided to grant planning permission subject to 17 conditions. The conditions are standard for the nature of the development.

3.2. Planning Authority Reports

- 3.2.1. The main issues raised in the planner's report are as follows;
 - The subject site is located within the development boundary for the settlement of Coachford in accordance with the Macroom LAP.

- The future development potential of the larger field will not be compromised by the proposed development. The proposal is therefore not contrary to DB-01.
- The Area Engineer has no objection to the vehicular access.
- The proposed house will be served by a main sewage connection.
- Given the flat low-lying nature of the site the proposed house design would be acceptable.

3.2.2. Area Engineer; - Additional information sought in relation to (a) sightline provision, and (b) details of the the proposed wastewater treatment system.

3.3. **Third Party Observations**

There is one third party submission and the issues raised have been noted and considered.

There is a submission from Kevin O'Keeffe TD on behalf on the applicants.

4.0 **Planning History**

- L.A Ref. 14/5139 – Permission **granted** to the Tony Enneguess for the construction of a vehicular entrance to land from public road R619 for agricultural purposes.

5.0 **Policy Context**

5.1. **Development Plan**

The operational Development Plan is the Cork County Development Plan, 2014 – 2020.

Chapter 13 relates to Green Infrastructure and Environment and sets out policies in relation to landscape.

6.0 Local Area Plan

The operational Local Area Plan is the Macroom Local Area Plan, 2011. In accordance with the settlement boundary for Coachford the subject site is located within the settlement boundary.

7.0 The Appeal

7.1. The following is the summary of a third party appeal submitted by Edward O’Riordan;

- Prior to this planning application the applicants have been responsible for some illegal activities which have facilitated the proposed development.
- These activities include the felling of mature trees in contravention of the Forestry Act 1946 and the destruction of a hedgerow during the nesting season in breach of the Wildlife Act 1976.
- Other illegal activities included the closing off of a right of way along the northern edge of the field. This right of way facilitated access to a former national school.
- A previous planning application (L.A. Ref. 14/5139) sought to create an entrance onto the public road (R619).
- This entrance was to facilitate agricultural vehicles and this vehicular entrance would have removed an existing road-side ditch.
- Planning permission was granted with several conditions attached.
- Condition no. 2 and Condition no. 9 required that the vehicular entrance shall be used for agricultural entrance only and that native hedging be planted.
- Within two years and following removal of further hedgerow the current planning application was lodged.
- It is contended that the granting of permission for this development would reward wrongdoing and underhanded behaviour.
- In addition no attempts have been made by the applicant to comply with the Conditions no. 2 and no. 9 of the previous permission.

- It is contended that the conditions of the previous permission still pertain to the subject site.
- It is submitted that the conditions of the previous permission remains attached to the subject property and that it still affects the full length of the roadside boundary of the area concerned.
- The appellant is disappointed with the local authority's grant of permission in this current case.
- It is requested that the illegal activity which was undertaken at this site should be investigated.

7.2. Applicant Response

The following is the summary of a response submitted by the applicant's agent;

- A map is submitted with the submission. The land outlined in blue is owned by the applicant's father and the adjacent land outlined in orange is owned by the applicant's sister and partner.
- It is submitted that there was no mature trees removed unlawfully.
- Some trees were cut back and topped in an attempt to make them safe during storm events.
- The submitted photographs illustrate hedge cutters and tractor saws and these machines are only capable of cutting back or trimming.
- The submitted photos do not include dates and it is contended by the landowner that this trimming was carried out during open season between September 1st and February 28th.
- The submitted photos relate to an adjoining field and not the actual field in which the planning application relates.
- It is submitted that there is no neighbouring right of way adjoining the subject site.

- The field was surveyed during the purchase process and it was found that there was no registered right of way in place with the Property Registration Authority.
- The closing of the former access to a school was necessary for animal care and security of the field and its stock.
- The access was not in use at any point during the year and for safety concerns the applicant's engineer advised that the access was closed off.
- In relation to L.A. Ref. 14/5139 this application was made to facilitate access to the field owned by the applicant's father.
- There was no direct access to applicant's father's field.
- The application was accessed by the planning authority and granted based on its merits.
- The permitted entrance is only used for agricultural purposes in accordance with condition no. 2 of Local Authority ref. 14/5139.
- It has been confirmed by the planning authority that the applicant is not in breach of condition no. 9 of Local Authority Ref. 14/5139 and that there is still time to comply with this condition.
- The previous planning application was not an attempt to make way for further development but to gain access to a landholding.
- The sightline provision for the agricultural entrance has been assessed and approved by the Council engineers.
- The local authority has indicated that they intend to alter the road in this location and this has been taken into account in preparing the planning application.

7.3. Planning Authority Response

None

7.4. **Observations**

None

8.0 **Assessment**

- Principle of Development
- Traffic Safety
- Impact on established Amenities
- Appropriate Assessment
- Other Issues

8.1. Principle of Development

The operational Local Area Plan is the Macroon Electoral Area Local Area Plan, 2011. In accordance with the settlement map for Coachford the appeal site is located within the settlement boundary.

Therefore having regard to the location of the proposed development I would consider that the principle of residential development on the subject site would be acceptable provided that the proposal has adequate residential amenity and adequately safeguards the residential amenities of the adjoining properties, and would be in accordance with the development plan provisions.

8.2. Traffic Safety

The proposed development includes the provision of a vehicular access onto the adjoining regional road, i.e. R619.

The alignment of the public road adjacent to the appeal site curves towards the south and therefore adequate sightline provision would be a challenge from the subject site. However as part of the proposed development it is proposed to

remove the existing fence of concrete post and chain link wire from the front of the site and it is intended to relocate this fence to a new location set back into the appeal site. Furthermore it is proposed that the area between the existing post and chain link wire, to the front of the site adjoining the public road, and the proposed new location of the fence line will be finished in topsoil and lawn seeded to a level at 100mm above adjoining road level. This modification will mitigate the impact of the curve on sightlines from the proposed vehicular entrance.

The proposed development outlined above will effectively improve the sightline provision, particularly to the south, from the proposed vehicular access serving the proposed house as it will allow for a sightline provision of 70m in either direction. The speed limit along this stretch of regional road is 50kph. I would note that the Area Engineer is satisfied with the proposed sightline provisions. Overall I would consider that the proposed development as outlined in submitted Site Line Trainagle Details 2011 would provide for adequate sightline provision from the subject site.

8.3. Impact on Estalished Amenities

Although this issue was not raised in the appeal submission I will just outline a few issues for the Board's consideration given the scale of the proposed house. The total floor area of the proposed house is approximately 270 sq. metres which is relatively sizable. From a design perspective the most striking feature of the proposed house is the scale of the front elevation. The length of the front elevation, including the side element, is approximately 21.5 metres which, in my view, will have an impact on the immediate area in terms of scale. However I would consider that having regard to the site layout there is potential landscaping to screen or partially screen the impact of the proposed house which is a dormer bungalow, and screen the scale of the proposed house.

The Cork County Development Plan, 2014, sets out landscape designations for the County and these include Scenic Routes and High Value Landscapes. I have reviewed the landscape designations of the County Development Plan and I would note that the appeal site is not afforded any protection under the Scenic Route

designation. In accordance with the provisions of the County Development Plan, the R618 is a designated Scenic Route however the proposed development will not be visible from the R618.

The appeal site is located within a designated High Value Landscape in accordance with the provisions of the County Development Plan. However I would consider that there is an established pattern of rural houses in the local area and the proposed house would not unduly impact on the established landscape.

Overall I would consider that the site can accommodate and absorb the proposed development.

8.4. Appropriate Assessment

I would note from the NPWS website (www.npws.ie) that the nearest Natura 2000 designated site, i.e. The Gearagh SAC (Site code 000108) is located in excess of 10km west and upstream to the appeal site.

It is intended that the proposed house will be connected to public water mains and the public sewer. Having regard to the nature and scale of the development proposed, to the nature of the receiving environment and the likely effluents arising from the proposed development I recommend that no appropriate assessment issues arise.

8.5. Other Issues

I would also note that it is claimed that a laneway adjoining the appeal site has a 'right of way' and that its closure by the applicant was carried out illegally. The applicant's agent counter argues this point claiming that the applicant is the full and rightful owner of the former laneway. This is a legal issue which the Board are unable to adjudicate on within the remit of the Planning and Development Act. It is important to note Section 34(13) of the Planning and Development Act, 2006, which

states *'a person shall not be entitled solely by permission under this section to carry out any development'*. There is therefore an obligation on the applicant to ensure that they have full legal title before proceeding with any permitted development.

The appellant has raised in his submission that the condition no. 2 and Condition no. 9 in relation to L.A. Ref. 14/5139 were not fully complied with. These issues of compliance are enforcement matters in which the Board has no remit under the current Planning and Development Act.

9.0 Recommendation

9.1. I have read the submissions on the file, visited the site, had due regard to the Local Area Plan and the County Development Plan, and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

10.0 Reasons and Considerations

Having regard to the zoning objective of the appeal site in the Macroom Local Area Plan, 2009 – 2015, and the extent of the proposed development, it is considered that subject to compliance with conditions set out below, the proposed development would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by plans and particulars submitted to Cork County Council on 29th August 2016 and, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

3. The proposed vehicular entrance shall be designed and constructed in accordance with the requirements of the planning authority. Details shall be agreed with the planning authority prior to the commencement of development.

Reason: In the interests of traffic safety.

- Prior to commencement of development, details of the materials, colours
4. and textures of all the external finishes shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

- The house to be used as a single dwelling unit.
- 5.

Reason: In the interest of clarity.

Details for all boundary treatment to serve the proposed development shall

6. be submitted for the written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interests of amenity and the proper planning and sustainable development of the area.

7. The site shall be landscaped with suitable trees, shrubs or hedging which shall mainly be of indigenous species. Details shall be agreed with the planning authority before development commences.

Reason: In the interest of visual amenities.

8. That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

9. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of amenities and public safety.

10. All service cables associated with the proposed development (such as

electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

11

Surface water from the site shall not be permitted to drain onto any public roads.

Reason: In the interest of traffic safety.

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The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Kenneth Moloney
Planning Inspector

31st January 2017