



An
Bord
Pleanála

Inspector's Report PL08.247652

Development	House, garage, entrance, treatment system and site works
Location	Rathmorrel, Causeway, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	16/157
Applicant(s)	David Butler & Irene O'Driscoll
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	David Butler & Irene O'Driscoll
Observer(s)	None
Date of Site Inspection	27 th February 2017
Inspector	Mary Crowley

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.223ha (0.6 acres) is located on the southern side of the R551 between Causeway and Ballyheigue. The site runs parallel to a minor secondary road and is adjacent to Rathmorrell National School. It was noted on day of site inspection that the National School was for sale. The road is well developed with a significant number of houses between the site and the village. The Dairy-master Plant, a substantial agri-technology plant is also located further east along the R551 approximately 2km from Causeway village. The area is characterised as predominantly agricultural with associated housing and farm buildings together with “one off” housing.
- 1.2. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file.

2.0 Proposed Development

- 2.1. This is an application (19th February 2016) for the development of a one and half storey domestic dwelling house, garage, entrance and access drive and a mechanical aeration unit and soil polishing filter and all ancillary site works. The application was accompanied by the following:
 - Planning & Design Report
 - Site Characterisation Form
 - Specification, Method Statement, Operation and Maintenance of Site Suitability Assessment Solution
- 2.2. In response to a request for further information (requested 13th April 2016) the applicant submitted the following (27th May 2016) as summarised:
 - Site poles constructed on site
 - Revised proposals detailing the site entrance and visibility available
 - Report from Brian Coakley Roads Engineer setting out the concept behind the positioning of the site entrance
 - Surface water to be treated with on-site soakaways

2.2.1. In a further submission in response to a request for outstanding further information (requested 7th June 2016) the applicant submitted the following (22nd July 2016) as summarised:

- The house has been redesigned and the upper floor has been removed entirely, the height has been reduced from 7.5 m to 5.8m

2.2.2. Revised public notices in relation to the further information were submitted on 10th August 2016 and 10th October 2016.

2.2.3. In a further submission in response to a second request for outstanding further information (requested 28th July 2016 & 23rd August 2016) the applicant submitted the following (26th September 2016) as summarised:

- Revised road access layout

3.0 Planning Authority Decision

3.1. Kerry County Council **refused permission** for the following reason:

- 1) *The proposed erection of a dwelling at this location by reason of its siting and combined with the removal of 150m of roadside boundary on the R551, would be unduly obtrusive by virtue of its visual impact on the landscape and would interfere with the character of the landscape, which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

3.2. Kerry County Council Planning Authority Reports

3.3. Planning Reports

3.3.1. The Local Authority Planner in their first report (12th April 2016) requested the following further information as summarised:

- Sight poles to be erected on site to present the proposed ridge roof height of the proposed dwelling
- Site entrance to include the proposed set back of the realigned road side boundary

- Available sight distances in both directions at the junction of the access with the public road

3.3.2. The Planner in their second report (27th October 2016) and having considered the further information recommended a refusal of permission for a single reason relating to visual impact. The notification of decision to refuse planning permission issued by Kerry County Council reflects this recommendation.

3.4. **Other Technical Reports**

3.4.1. **Water Services** has no objection to the scheme.

3.4.2. The **Environment Section** in their Site Characterisation Form Report states that the sites is suitable for the incorporation of an on-site effluent treatment system subject to the conditions as set out in their report.

3.4.3. The **Listowel Roads Office** recommended a grant subject to conditions relating to roadside drainage, surface water, road opening licence, make good damage to the public road and sight distance.

3.5. **Prescribed Bodies**

3.5.1. **Irish Water** has no stated objection to the scheme.

3.6. **Third Party Observations / Public Representations**

3.6.1. Cllr John Lucid asked that *his name be put on the file*.

4.0 **Planning History**

4.1. There is no evidence of any previous appeal on this site. However, it is noted from the Planners report that a refusal of permission has issued on the adjoining site to the west on grounds of visual impact, traffic safety and waste water treatment Reg Ref 16/448 refers.

- It is noted that there was a previous appeal in 2014 on a site further west. **PL08.243476 (Reg Ref 14/168)** – Kerry County Council granted permission for the demolition of an existing habitable dwelling house and boundary walls and decommission of a septic tank and the construction of a new dwelling house and

septic tank and percolation area at Ballinclemesig, Ballyheigue. This was appealed by a third party. The Board granted permission subject to 10 Conditions.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Kerry County Development Plan 2015-2021**. Chapter 3, Section 3.3 sets out Rural Development Policies. Objectives RS-1 to RS-6 constitutes the overall objectives relating to Rural Housing Policy. The proposed site is located in an area zoned Rural General which is covered by Section 3.3.2.1 of the Plan. Table 3.7 states that in areas zoned Rural General, any development permitted shall be for the use as a permanent primary place of residence. Chapter 12 deals specifically with Zoning and Landscape.

5.1.2. Policy relating to areas zoned Rural General in Section 12.3.1 Rural (c) states that *“it is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development”*. Policy ZL-1 states that it is policy to *protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to people’s lives*.

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site. The relevant European sites is the Lower River Shannon SAC.

6.0 The Appeal

6.1. Appeal Submission

6.1.1. The first party appeal has been prepared and submitted by David Moriarty & Associates Architects on behalf of the applicant. The grounds of appeal may be summarised as follows:

- 6.1.2. The proposed dwelling was to be a one and half storey dwelling carefully set in a mature tree sheltered and screened location to create a very private setting and minimising the visual impact. During the planning process this was to be reduced to a single storey development with attic accommodation.
- 6.1.3. The proposed site is located on family lands. The site was chosen for the quality of the land, the proximity to the family home and the falling ground which limits its exposure and the existing mature screening which allowed the house to be integrated both from the east and west but also from the line road to the south. The site was also chosen following clear instructions from the area planner and the roads engineer. The applicant needs to live in the area is well established as the applicant (Irene) is her mother's primary carer and to be denied the right to live nearby is heart-breaking.
- 6.1.4. The development would not compromise the objectives of ZL-1 as the development can be integrated into the area with careful landscaping and reinstatement of the boundary.
- 6.1.5. The boundary is to be realigned in order to achieve road safety sight lines. The extent of the road widening was determined at a very early stage by Kerry County Councils Roads Engineers after the area planner expressed concerns at pre-planning stage.
- 6.1.6. Kerry County Council have ignored the fact that road widening and realignment is very common along the R551 including applications granted either side of this application Reg Ref 15/26, 13/31, 16/318 and 10/264 refer.
- 6.1.7. Kerry County Council ignored the proposed landscape plan both for the potential of what it would have done to reduce visual impact and offset the resetting of the ditch.
- 6.1.8. The visual impact of the house has been exaggerated. Contextual site photos together with photorealistic models show the development within its final setting. The development has no greater impact from the south than the houses recently granted.
- 6.1.9. The appellant feels that this application has not been given the same degree of attention as other recent applications in the area which had the same issues.

- 6.1.10. The appellant finds the term “development would impact on the character of the landscape” disingenuous. The area is not an area of unique natural beauty. It’s a bland agricultural area with little or no tourism. The road despite linking two of Kerry’s finest coastal roads was not considered suitable for the Wild Atlantic Way scheme.
- 6.1.11. The appellant also feels Kerry County Council have been highly contradictory in refusing this application on the grounds of the character of the landscape after granting a number of other developments which are greater in scale and bulk and are far more injurious to the landscape than the proposed development. Photos attached.
- 6.1.12. It is noted from the Planners report the descriptions “breaking the skyline” is used on a regular basis with negative connotations however it must also be noted that there are quite a number of houses and buildings the “break the skyline” including all houses that were granted along the R551 in 2015 and 2016.
- 6.1.13. The Planners report show handwritten notes suggesting that the house should be moved to the east. It is considered unacceptable that late in the case the planners raised concerns, regrettably not aired during the pre-application process.

6.2. **Planning Authority Response**

- 6.3. Kerry County Council in their submission set out the following as summarised:
- A pre planning meeting took place in relation to the proposed development. A number of concerns were clearly highlighted at this stage. Copy of pre planning report attached where the main issues raised included location on a regional road, visual impact, traffic safety, archaeology and waste water treatment.
 - The Planning Authority did not ignore any information submitted with the planning application
 - Sight poles were inspected on site during the course of the assessment of the application and the said sight poles illustrated the visual impact of the proposal

- The hand written notes at the end of the Area Planners report are from the Senior Executive Engineer, Planning following the Area Planners recommendation

6.4. **Observations**

6.5. There are no observations recorded on the appeal file.

6.6. **Further Responses**

6.7. None recorded on the appeal file.

7.0 **Assessment**

7.1. This is an application (submitted 19th February 2016) for the development of a one and half storey domestic dwelling house, garage, entrance and access drive and a mechanical aeration unit and soil polishing filter and all ancillary site works. In response to a request for further information the applicant submitted inter alia revised proposals detailing the site entrance and visibility available on the 27th May 2016. In a further submission in response to a request for outstanding further information the applicant submitted a redesigned the house removing the upper floor and reducing the height from 7.5 m to 5.8m on the 22nd July 2016. In a further submission in response to a second request for outstanding further information the applicant submitted a revised road access layout on 26th September 2016. Revised public notices in relation to the further information were submitted on 10th August 2016 and 10th October 2016.

7.2. Accordingly, this assessment is based on the plans submitted to the planning authority on 19th February 2016 as amended by plans received by the Planning Authority on 27th May 2016, 22nd July 2016, 10th August 2016, 26th September 2016 and 10th October 2016.

7.3. Kerry County Council refused planning permission for this development for one reason relating to visual impact. Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site

inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Visual Impact & Traffic Safety
- Waste Water Treatment
- Screening for Appropriate Assessment
- Other Issues

7.4. Principle / Policy Considerations

7.4.1. This is an application for single one off house and treatment system in a rural area of Co Kerry. The proposed development is located in an area zoned "Rural General". Further Map 3.1 of the Kerry County Development Plan 2015 - 2021 indicates that the site in question is located within an area designated as 'Stronger Rural Area'. According to the Development Plan these areas generally have a stable population level that is supported by a traditionally strong rural/agricultural economic base. It is stated that the key challenge in these areas is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas. Objective RS-1- states that it is an objective to *facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations*. Table 3.7 of the Development Plan states that in areas zoned Rural General any development permitted shall be for the use as a permanent place of residence.

7.4.2. The applicant is the daughter of the local landowner and together with her husband and family have returned from Kildare to start a new job in the area. It is stated that the applicant was born and raised in the family home which is known locally as Rathmorrel House and which is directly adjacent to the appeal site. Further the applicant is her mother's primary carer. On the basis of the available information, I am satisfied that the applicant has demonstrated intrinsic links to the area and satisfies the relevant eligibility criteria set out in Development Plan as regards the development of a rural dwelling house in this area.

- 7.4.3. I would draw the Boards attention to Table 3.7 of the Development Plan where it states that in areas zoned Rural General any development permitted shall be for the use as a permanent place of residence. It is recommended that should the Board be minded to grant permission that a condition be attached requiring that when the proposed dwelling is completed it shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter.
- 7.4.4. The proposed development is not likely to impact negatively on residential amenities in the area. Therefore, having regard to the nature and residential use of the development I am satisfied the principle of a dwelling house at this location is acceptable subject to compliance, with the relevant policies, standards and requirements set out in development plan.

7.5. Visual Impact & Traffic Safety

- 7.5.1. Kerry County Council refused permission for the erection of a dwelling at this location by reason of its siting combined with the removal of 150m of roadside boundary on the R551 and its visual impact on the landscape which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021.
- 7.5.2. Policy ZL-1 states that it is policy *to protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to people's lives.* Further Section 12.3.1 Rural General states that *"it is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development"*.
- 7.5.3. As set out previously the proposed development is located in an area zoned Rural General which is covered by Section 3.3.2.1 of the Plan. According to the Development Plan these areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character. Residential development in these areas shall be regulated in accordance with the provision of Section 3.3.1 and Objectives RS-1 to RS-4 and Table 3.4. Further the appeal site is under no special protection, neither "Prime Special Amenity",

“Secondary Special Amenity” or has no “Protected Views and Prospects” as outlined in Zoning and Landscape Map 12.1a of the County Development Plan (2015-2021).

7.5.4. The sight poles were observed on day of site inspection. I agree with the Planning Authority that the house (as amended) would be visible along the adjoining road. However, having regard to the nature of the environment and the landscape designation for the area as set out in the Development Plan above together with the proposed landscaping plan I do not consider the visual impact of the scheme to be so significant or negative as to warrant a refusal in this case. Overall I am satisfied that the proposed dwelling design (as amended) is sympathetic to the site and environs in terms of scale and location. The design response (as amended) is therefore acceptable at this location.

7.5.5. Notwithstanding the acceptance of the dwelling house (as amended) I share the concerns raised by Kerry County Council in their refusal regarding the removal of a significant stretch of the road side boundary particularly to the east in order to achieve adequate sight lines. I agree with the Senior Executive Engineer (Planning) addendum to the Planner Report and would query the necessity of setting back 90m of roadside fence to the west of the entrance. As observed on day of site inspection I am satisfied that there are adequate sight lines available to the west without significant physical intervention (site photos refer). The removal and setting back of the roadside fence to the east of the entrance is absolutely necessary to achieve sight lines. However, these works are in my view excessive at this rural location. But without this physical intervention the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a regional road at a point where sightlines are restricted in an easterly direction. Overall I consider that the proposed extensive removal of roadside boundary in an easterly direction that is required to achieve adequate sight lines would be unduly obtrusive would interfere with the character of the landscape, which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021. Refusal is recommended.

7.6. **Waste Water Treatment**

7.6.1. The development will be served by a packaged mechanical wastewater treatment system and polishing filter. I have noted the contents of the Site Characterisation

Form and details of proposed wastewater treatment system submitted the application. It is also noted that the Site Characterisation Form Report submitted by the Site Assessment Unit, Environment Section of Kerry County Council concluded that the site is suitable for the incorporation of an on-site effluent treatment system subject to conditions as set out in the report. The proposed arrangements are considered acceptable subject to compliance with the requirements of the planning authority and the EPA guidelines. On the basis of the information available on file, it would appear that the subject site is suitable for the installation of the packaged wastewater treatment system and polishing filter as proposed subject to conditions.

7.7. **Appropriate Assessment Screening**

- 7.7.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site (Lower River Shannon SAC), 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.

7.8. **Development Contribution**

- 7.8.1. Kerry County Council adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended). The proposed development does not fall under the exemptions listed in the “Exemptions from Payment of Development Contributions” Section of the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Development Contribution in accordance with the Planning and Development Act 2000.

8.0 **Recommendation**

- 8.1. Having considered the contents of the application (as amended), the provision of the Kerry County Development Plan 2015 – 2021, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a regional road at a point where sightlines are restricted in an easterly direction. The proposed extensive removal of roadside boundary in an easterly direction, would be unduly obtrusive by virtue of its visual impact on the landscape and would interfere with the character of the landscape, which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021. To permit the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Mary Crowley

Senior Planning Inspector

10th March 2017