



An
Bord
Pleanála

Inspector's Report PL04.247720.

Development	Dwelling house and domestic garage.
Location	Oldcastletown, Kildorrery, Co Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	16/5810.
Applicant(s)	Austin and Donna Walsh.
Type of Application	Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party versus decision.
Appellant(s)	Kevin Patrick O'Driscoll and Anne Marie O'Driscoll.
Observer(s)	Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.
Date of Site Inspection	16 February 2017.
Inspector	Stephen Rhys Thomas.

1.0 Site Location and Description

- 1.1. Kildorrery is a north Cork village located approximately 11 kilometres west of Mitchelstown on the junction of the N73, National Secondary Road, and the R512, Regional Road.
- 1.2. The appeal site is located to the east of the village, approximately 500 metres from the village centre. It has a stated area of 2.445 hectares and comprises agricultural land. The east, south and west boundaries are defined by stone walls and mature hedgerow/trees. To the north the site is defined by a timber post and rail fence. Ground levels fall from west to east across the site. The Ordnance Survey maps indicate an archaeological feature in the southeast corner of the site, which comprises a circular banked enclosure with mature trees within.
- 1.3. The site fronts (to the south) a cut-off piece of land left following the upgrading of the N73 and its junction with the L5619 Aghacross Road. An existing field gate entrance to the site is accessible via a track across this strip of land from the main road. The site includes a narrow strip of land to the east as far as an existing field gate entrance onto local road L5619 (Aghacross Road). The narrow strip of land provides vehicular access to the bulk of the site and amounts to approximately 300 metres.
- 1.4. The site is bounded to the east by an existing cluster of residential properties and to the west by a detached two storey house. There are undeveloped agricultural lands further to the west between the site and the village proper. There is an existing footpath on the northern side of the N73 to the village.

2.0 Proposed Development

- 2.1. The applicant proposes to construct a two storey dwelling and domestic garage with a variety of roof pitches and arranged around a grouping of single and two storey structures. The building finishes are contemporary and comprise; white render, zinc roof and wall cladding and timber cladding to projecting window at first floor level. The overall height of the dwelling will be approximately 6.7 metres above ground level. The floor area of the proposed dwelling is 249.50 sq.m. and the garage is 32.6 sq.m.
- 2.2. The dwelling will be connected to the public foul sewer.

- 2.3. The dwelling will be located at the north eastern corner of the large field site and accessed by an approximately 300 metre long driveway to the east.
- 2.4. Further information was submitted in respect of the development proposal and comprised an archaeological assessment and longitudinal survey of sewer connection.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions. The relevant conditions are summarised below:

- Condition 7 refers to landscape requirements.
- Conditions 8, 9, 10, 11, 12 and 13 refer to vehicular entrance details and sightlines.
- Condition 15 refers to archaeological requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planners report can be summarised as follows:

- Identification of the site with the development boundary of the LAP.
- A summary of discussions with the Planning Policy Unit of the Council and a conclusion that a single dwelling on the site would not impact upon the overall strategy to deliver up to 50 units across zoned land in the plan.
- Concern with regard to traffic issues, given the previous refusal on the site.
- The requirement for Appropriate Assessment screened out.
- Further information required with respect to sewer connection and impact upon an archaeological feature on the site.

The final Planners report can be summarised as follows:

- The material submitted in responses to the further information request was found to be acceptable.
- Permission was recommended subject to conditions.

3.2.2. Other Technical Reports

Area Engineer's Report – site entrance acceptable, no issues with regard to surface water, foul water and water supply.

Archaeologist's Report – further information required with respect to the location of an archaeological feature on the site. Further information submitted acceptable subject to conditions.

3.3. Prescribed Bodies

Irish Water Report – Initial report required further information with respect foul water connection. Subsequently, no objections subject to standard technical conditions.

An Taisce Report – The proposal should be assessed against the Cork County Development Plan, the National Spatial Strategy, Sustainable Rural Housing Guidelines and EU Groundwater Directive.

Transport Infrastructure Ireland (TII) Report – TII will rely on the planning authority to implement relevant guidelines with respect to national roads.

3.4. Third Party Observations

A submission was received by the planning authority and refers to a number of issues which are repeated in the grounds of appeal.

4.0 Planning History

Appeal Site

Planning authority register reference 09/4350 and ABP reference PL04.233471.

Permission refused for 23 houses and six serviced sites. The reasons for refusal can be summarised as follows:

- Reason 1: the 300 metre access road outside the development boundary of the village and to the rear of houses would be inappropriately circuitous, give

rise to pressure for future development and detract from the rural character of the area. The development would represent a non-sequential approach to the growth of the village.

- Reason 2: the proposed development would lead to an increase in traffic and impact the carrying capacity and efficiency of the N73.
- Reason 3: the additional turning movements from the development onto a minor road of inferior width and alignment would lead to the creation of a traffic hazard.

Planning authority register reference 08/4604. Application withdrawn for 23 houses and six serviced sites.

Planning authority register reference 08/4016 and 08/10386, similar developments but no information on decision.

5.0 Policy Context

5.1. Development Plan

5.1.1. Fermoy Electoral Area Local Area Plan Second Edition 2015.

Kildorrery is identified as a Key Village in the LAP and therefore an important location for the provision of jobs and services in the rural area.

The appeal site is located within the settlement boundary of the LAP.

Development Boundary Objective - DB-01

a) Within the development boundary of Kildorrery it is an objective to encourage the development of up to 50 houses in the period 2010-2020.

c) The number of houses in any particular group should have regard to the character of the existing village and will not normally exceed the provision of 30 units.

d) All development should be connected to the public water supply, the public wastewater treatment system and make adequate provision for stormwater storage and disposal.

g) Residential development in other areas shall provide for small groups of houses, detached units, serviced sites and self-build options.

j) Development of the village should take place in a sequential manner extending from the core with the provision of safe access on to the local road network and not on to the national road network.

7.4.6. There are access issues for the development of lands north and abutting the N73 due to the function and alignment of the national secondary road. The resolution of this issue requires priority under the Plan and may require exploring a range of new access options which link into the streetscape on either or both spine roads.

7.4.10. Outside the development boundary, the land forms part of the open countryside. Here, the objectives of the Cork County Development Plan 2009 prevail, which seek to prevent sprawl and to ensure a clear distinction between built-up areas and the open countryside.

I note the publication of the **Draft Fermoy Municipal District Local Area Plan November 2016**. The principle differences between the existing LAP and the Draft Plan, in relation to Kildorrery, is the reduction of objectives within the development boundary of the village. For the most part, the draft plan mirrors the aims and objectives of the existing plan with respect to the appeal before the Board.

5.1.2. **Cork County Development Plan 2014**

Part of the appeal site is located in lands designated as a Strong Rural Area and within a High Value Landscape.

The driveway portion of the appeal site is located outside the development boundary of Kildorrery, the following sections of the Development Plan area relevant:

Section 4.6 General Planning Considerations

Section 4.6.2 - All planning applications for houses in rural areas, regardless of the personal circumstances of the applicant or whether they qualify under specific social and economic criteria, have to be tested against a range of site specific planning and sustainable development criteria. Normally, the planning and sustainable development criteria, against which an application is assessed, would include the following:

- Whether any proposed vehicular entrance would endanger public safety or give rise to a traffic hazard (See Chapter 10);

- Whether an excessive length of roadside hedgerow or trees need to be removed to provide an entrance (See Chapter 12);

County Development Plan Objective GI 6-2: Draft Landscape Strategy

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

5.2. Natural Heritage Designations

The Blackwater River (Cork/Waterford) SAC (site code 002170) is located approximately 5.5 kilometres to the south west. Carrigeenamronety Hill SAC (site code 002037) and the Ballyhoura Mountains SAC (site code 002036) are located approximately 4.6 kilometres to the north.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been lodged against Cork County Council's notification of decision to grant permission. The main grounds of appeal can be summarised as follows:

- The appeal site is located within the development boundary of the LAP, however, the approach to the dwelling is not. The proposed development is at variance with a number of policies contained within the LAP; density too low, access road is too circuitous, does not provide safe access to the road network.
- The road from which the development takes its access is narrow. The appellant disagrees with the findings of the Area Engineer's view that adequate sightlines are available. The drawings submitted by the applicant do not adequately address sightlines. Condition 12 which requires sightline

compliance is not obtainable. The proposed development could conflict with condition 10 of permission 98/5562, which requires the hedgerow to be retained.

- Only one site notice was erected, whereas previous applications had multiple site notice locations.
- Landscape screening proposals have not been submitted or addressed by way of a condition.
- The entrance roadway appears to be a two lane road (one agricultural and one for the dwelling), though the overall planning permission does not seem to incorporate such uses.
- The proposal will result in a loss of amenity for neighbouring dwellings.
- The precedent set by a permission for such a long access road could lead to other examples of unacceptable proposals.
- The long access road would come under pressure to facilitate future development.

The grounds of appeal are accompanied by aerial photography, planning history site layouts and site entrance photographs.

6.2. Applicant Response

None.

6.3. Planning Authority Response

None.

6.4. Observations

The heritage related observations of the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs can be summarised as follows:

- Condition 15 of the schedule of conditions should be retained if permission is granted.

- The exact wording of condition 15 should be retained and the appropriate archaeological buffer zone of 30 metres and mitigation should be applied in order to protect Recorded Monument CO018-016.

7.0 **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. The issues can be dealt with under the following headings:

- Accordance with Local Area Plan.
- Traffic Safety.
- Landscape Screening.
- Residential Amenity.
- Access Roadway.
- Procedural Issues.
- Appropriate Assessment.

7.2. **Accordance with Local Area Plan**

7.2.1. The majority of the site is located within the settlement boundary of Kildorrery in the Fermoy Electoral Area Local Area Plan Second Edition 2015. I note from the Area Planner's Report, that advice was sought from the Planning Policy Unit of Cork County Council with respect to the acceptability of a single dwelling at this location within the LAP lands. It was reported that given the large amount of undeveloped land within the village, there would still be sufficient land within the LAP lands to accommodate up to 50 houses during the plan period.

7.2.2. The LAP does not outline a specific objective for this area of Kildorrery. However, given the remote location of the site and lack of a direct access point from the village, it is difficult to see how the site can be sequentially developed without complex land assembly. Vehicular access to lands is a problem identified by the LAP. Clearly, to provide vehicular access to the site for a higher density housing scheme from the east is not acceptable, as evidenced by a previous refusal.

- 7.2.3. The provision of a single dwelling would accord with LAP objectives, insofar as it is a low density housing proposal which will not exceed 30 units. The development will be connected to the public water supply and public wastewater treatment system. The proposed development is, therefore, in broad accordance with the LAP for the area.
- 7.2.4. I do accept that the proposed circuitous access driveway falls outside the settlement boundary of the LAP and could, therefore, be subject to the requirements of the County Development Plan with respect to rural dwellings. In this regard I note that the proposal is for a safe access to a country road and that no excessive amounts of roadway hedgerows will be removed. From a built environment perspective, the roadway will not in itself result in sprawl and will retain the distinction between built up areas and the countryside. In addition, the construction of a single dwelling on the outer edge but still within the settlement boundary will contribute to an acceptable transition from village to countryside. This would also accord with the necessity to minimise visual impact to a High Value Landscape designated in the County Development Plan.
- 7.2.5. I consider that the proposed development of a single dwelling within the settlement boundary of Kildorrery Village would accord with the relevant objectives of the LAP. I do not consider that the proposed development should be assessed against the rural housing policies of the County Development Plan.

7.3. Traffic Safety

- 7.3.1. The appellant disagrees with the findings of the Council's Area Engineer with regard to available sightlines and is concerned that an entrance on to such a narrow road would present a traffic hazard. There is disagreement too, in relation to the achievement of sightlines as they are presented in drawings submitted by the applicant. In addition, there are insufficient lands in the applicants control to maintain or manage hedgerows.
- 7.3.2. I note that a previous planning application for 23 dwellings and six serviced sites was refused by the Board for a variety of reasons which included traffic issues, PL04.233471 refers. Of relevance to the current appeal before the Board was the unacceptability of an increased volume of turning movements onto a substandard and narrow country road. The subject appeal, a single dwelling, is of a far lesser

scale than that previously refused. I consider that parallels should not be drawn between the previous Board refusal and the current proposal. However, an analysis of the access arrangements to the subject site is necessary.

- 7.3.3. On the day of my site visit I observed that the cutting of hedges was taking place. Notably, I observed that hedgerows lining both sides of the Aghacross Road (L5619) were well trimmed. I also noted the presence of a wide grass verge to the front of hedgerows on the northern side of the road, the side from which access will be taken. The overall width of the access as detailed within the red line boundary of the site amounts to 12.6 metres. The access point is located along a flat, narrow country road, at a point on a gentle curve, which allows good visibility in both directions.
- 7.3.4. The Area Engineer's Report on the current application states that there are no issues with the existing entrance and that sight distances are available. Of minor relevance is the Area Engineer's positive report in relation to the previously refused development of a far greater scale and volume of traffic. I also note, but have not seen conditions in relation to hedgerows of adjacent planning permissions, though in this instance no hedgerows are scheduled for removal and none are shown within the sight distance triangle.
- 7.3.5. Based upon my observations of the site entrance, sightlines detailed on layout drawings and the opinion of the Council's Area Engineer, I would consider the proposed site entrance to be acceptable. The likely volume of traffic using the entrance will be very low and I do not anticipate that agricultural vehicles using the shared entrance would result in conflicts. In this regard I note that there will be a significant pull-in area, to allow the safe opening and closing of gates as necessary.

7.4. Landscape Screening

- 7.4.1. The appellant has noted that there are no proposals to screen the length of the access road. In addition, I note that the landscape plan submitted by the applicant is not sufficiently detailed.
- 7.4.2. Firstly, the length of the access driveway is extensive and though it runs along the perimeter of a large agricultural field, there may be some adverse visual impacts. The issue of visual impact is particularly relevant given the location of the appeal site with a High Value Landscape. The impact of the driveway can be mitigated in two respects, extensive boundary planting to the rear property boundaries of

neighbouring dwellings and the careful selection of an appropriate top finish to the driveway.

- 7.4.3. Secondly, the proposed dwelling will be positioned in a central location within a large agricultural field and at the bottom of a gentle slope. Given the scale and massing of the house design I do not anticipate too great an impact. However, I would consider that an appropriate landscape plan, which incorporates extensive shelter belt and group planting would assist in the integration of the dwelling into its surroundings.

7.5. Residential Amenity

- 7.5.1. The appellant is concerned that their residential amenities will be impacted upon by the proposed dwelling, specific areas of concern are however not outlined.
- 7.5.2. The proposed dwelling will be located some 65 metres to the north west of the closest dwelling, a single storey period residence with associated outbuildings and gardens. The access driveway to the site will pass along the rear boundaries of four residential properties to the east, three of which are modern bungalows. The driveway will pass along the side and rear boundary of the appellant's property.
- 7.5.3. Given the distance of the driveway from the rear of dwellings and the likely insignificant traffic volumes, I anticipate no loss of residential amenity. I do consider that appropriate screen planting should be established and this will ensure that the perception of residential amenity loss is minimal.
- 7.5.4. The overall appeal site is large and the separation distance between dwellings is extensive. I do not anticipate any loss to existing dwellings of their present residential amenity.

7.6. Access Roadway

- 7.6.1. The total width of the first leg of the driveway which runs in a northerly direction is approximately 12.5 metres. It accommodates the access driveway to the appeal site and a linear but unspecified portion which allows access to the agricultural lands to the north. Unfortunately, the layout and landscape plans are not sufficiently detailed or annotated and therefore I must make assumptions. I assume therefore, that the nature of the lands within the red line boundary at this point is to provide both domestic and agricultural vehicles to access property/lands. The applicant should be required to illustrate and define the purpose of the access.

- 7.6.2. The entrance driveway to the appeal site is very long, 300 metres. The driveway keeps to the perimeter of a large agricultural field and runs to the rear gardens of a number of dwellings. I am conscious that a previous planning application for an access roadway followed the same route as currently proposed. However, the nature of the current proposal is very different to a road entrance for 29 dwellings, which was refused permission. The volume of traffic expected along the driveway will be much lower. I do not anticipate any issues of loss to residential amenity due to the infrequent passage of private motorcars to a single dwelling. Combined with an appropriate landscape screening plan along the driveway length, should ensure levels of privacy are maintained.
- 7.6.3. The proposal before the Board is a single dwelling and its associated access driveway. I do not consider that permission for the access driveway which serves a private dwelling, will in itself act as a stimulus for future development of lands outside or within the settlement boundary of the LAP. I suggest that access to the development lands of the LAP are better facilitated from within the village rather than from the periphery.

7.7. Procedural Issues

- 7.7.1. The appellant has raised issues with the validity of the planning application. They query the amount of site notices used and the description of the two-way access roadway was not advertised. Given the foregoing, I am satisfied that Cork County Council discharged their responsibilities and validated the planning application appropriately.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development within the development boundary of the village and serviced by mains water and foul sewer, 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 recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the location of the greater part of the site within a settlement boundary detailed in the Fermoy Electoral Area Local Area Plan Second Edition 2015 and the scale of the access driveway located within a High Value Landscape designated in the Cork County Development Plan 2014, the pattern of development in the area and the limited extent of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of the property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 27th October 2016, 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. (a) The entrance gates to the proposed house and agricultural field entrance shall be set back 9 metres from the edge of the public road. Wing walls forming the entrance shall not exceed one metre in height.

(b) The proposed front boundary wall shall consist of natural local stone, the exact height and location of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

3. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

5. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) Contoured drawings to scale of not less than 1:500 showing –

(i) a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal

(ii) a continuous hedge of indigenous species (e.g. holly, hawthorn, beech or field maple) planted for the full length and both sides of the proposed driveway boundary

(iii) the establishment of predominantly native and naturalised woodland groupings on areas an appropriate distance from recorded monument reference number CO018-016, incorporating species, variety, size, type, number and location of all trees and shrubs

(iv) at least 24 number trees planted to the south eastern side of the dwelling in informal clusters and groups

(v) any hard landscaping works, including driveway, car parking, enclosed areas, specifying surfacing materials, which shall not include tarmacadam or concrete

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established

(d) A timescale for implementation including details of phasing, which shall provide for the planting of the driveway to be completed before the dwelling is first made available for occupation

Deciduous trees shall be planted at not less than two metres in height and evergreen species at not more than 750 millimetres in height. Species to be used shall not include either cupressocyparis x leylandii or grisellinia. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

7. A buffer zone of 30m shall be established within the development site from the outer extent of Ringfort CO018-016 in advance of the development by a suitably qualified archaeologist. The buffer zone shall be delimited using appropriate temporary boundary fencing and signage. Prior to the commencement of the development the archaeologist shall submit a site layout showing the location of the buffer zone supported by photographic evidence. No construction works, stockpiling of topsoil or other material, or any development, or landscaping and/or planting shall take place within the designated buffer zone. No trees, plants or other material shall be removed from this buffer zone. Subsequent to the completion of the development the buffer zone shall remain around the Archaeological Monument. Planting within this buffer zone shall be limited to shallow-rooted plants and/or grass and a landscaping plan shall be prepared in consultation with the appointed archaeologist and submitted to the Local Authority for written approval in advance of the development.

Reason: To preserve items of archaeological importance

8. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Stephen Rhys Thomas
Planning Inspector

20 March 2017