



An  
Bord  
Pleanála

## Inspector's Report PL 08.249335

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<b>Development</b>	Family flat extension, replacement waste water treatment system, and retention of conservatory unit to rear of house.
<b>Location</b>	Gortacollopa, Fossa, Killarney, Co. Kerry.
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	17/241
<b>Applicant(s)</b>	Seamus O'Shea
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Michael & Grace Cronin
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	4 <sup>th</sup> December 2017
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.204ha, is located at the head of a private cul de sac laneway (unsurfaced and potholed), serving seven houses and farmland – with one house having a second dedicated access to the county road network. This laneway is located off the L11012 county road, linking the N72 National Secondary Road to the south with the R563 Regional Road to the north – some 3.0km northwest of the hamlet of Fossa, to the west of Killarney. The 80km/h speed restriction applies in this area, and there are no public footpaths and there is no public lighting. The L11012 is not wide enough for two cars to pass along much of its length. The cul de sac laneway originally bifurcated on approach to the L11012 – allowing for two egress points. However, one of these has recently been closed off to vehicular traffic – allowing access/egress via the southern branch only. Sight distance for exiting vehicles is poor to the north, and somewhat better to the south.
- 1.2. The site is on or about the 50m contour, and affords expansive views over the Macgillycuddy Reeks to the south. There are views to the north also, across a small valley. The site comprises the curtilage of a two-storey former farmhouse, with single-storey extensions, (painted plaster walls and slate/tile roofs) and part of a grassed field to the south. It slopes gently downhill from north to south – there being a fall of approximately 3-4m. There is a drain (filled with water) at the bottom of the small field from which the extended house site is to be carved. The site was dry under foot on the date of site inspection – with some rushes growing in the field. There is ample on-site parking.
- 1.3. Immediately to the west, there are some farm buildings associated with the two-storey house on the site. To the east, is a two-storey house set within a large garden and paddock – the boundary with which is a fair-quality hedgerow. To the south and southwest, the boundaries of the site are undefined – forming part of a larger grassed field. There are a substantial number of one-off houses in the wider area – particularly along the L11012 access road.

## 2.0 Proposed Development

- 2.1. Permission sought on 22<sup>nd</sup> March 2017, for development as follows-

- Construction of one-and-a-half storey family flat extension to existing two-storey house.
- Replacement of existing septic tank with a proprietary effluent treatment system to serve both the existing house and proposed family flat.
- Water supply was indicated as being from the public mains.
- Surface water disposal was indicated as being to soakways.

2.1.1. The application was accompanied by-

- Site Suitability Report for disposal of domestic wastewater, and details of the proposed 'Tricel' proprietary unit to be installed to serve the development.
- Letter of consent from the applicant's father to the making of the planning application.

2.2. Unsolicited additional information was received on 5<sup>th</sup> May 2017, in the form of revised first floor plans – reduction in number of bedrooms from five to four.

2.3. Following a request for additional information, the following was submitted on 26<sup>th</sup> July 2017-

- Applicant has resided in this house for forty years, and will continue to reside in it – providing care for his elderly parents. His brother and sister may also reside there to provide care for parents.
- Application for retention of conservatory to the side of the existing house and bedroom/bathroom extension to the rear of the house.

2.4. Following a request from KCC, revised public notices were submitted by the applicant on 11<sup>th</sup> August 2017.

### 3.0 **Planning Authority Decision**

By Order dated 7<sup>th</sup> September 2017, Kerry County Council issued a Notification of decision to grant planning permission subject to nine conditions, the principal ones of which may be summarised as follows-

1. Refers to retention development.

2. Development to be carried out in accordance with plans and particulars submitted on 22<sup>nd</sup> March, 5<sup>th</sup> May, 26<sup>th</sup> July and 11<sup>th</sup> August 2017.
3. Requires payment of development contribution of €1,500.
5. Proposed family flat and the existing dwelling-house shall remain as an integral unit in the one ownership.
6. Relates to decommissioning of existing septic tank.
- 7-9. Relate to the proposed effluent treatment system.

#### 4.0 Planning History

**Ref. 15/324:** Permission granted by KCC to Brenton Griffin and Frances Cronin to erect a house on a site accessed from the same cul de sac lane which serves the current appeal site. On appeal by a 3<sup>rd</sup> Party to the Board (**PL 08.245430**), permission was refused on 6<sup>th</sup> January 2016, for one reason as follows-

“It is considered that the additional vehicular movements that would be generated as a result of the proposed development at the intersections of the private laneway onto the local road where a speed limit of 80 km/h applies, and where sight distances are restricted, would give rise to an increase in conflicting vehicular movements which would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.

**Ref. 16107:** Permission granted by KCC to Brenton Griffin and Frances Cronin to erect a house on a site previously refused permission on appeal to the Board (PL 08.245430). This application is distinguished from the former one by the fact that alternative access arrangements are provided from the L11012 county road, rather than the unsurfaced cul de sac laneway, from which access was to be taken in the previous appeal case – necessitating a larger site of 0.632ha. The final grant of planning permission issued on 5<sup>th</sup> May 2016. Condition 8 required that entrance arrangements be as shown on drawings submitted. This house has been constructed. There are wide farm gates which permit vehicular access from this house to the cul de sac laneway.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant document is the Kerry County Development Plan 2015-2021. The site is in an area zoned 'Rural Secondary Special Amenity'. The level of development allowed will depend on the degree to which it can be integrated into the landscape. Section 3.3.5 of the Plan states- "In the case of refurbishment and extension proposals, the scale and architectural treatment of proposed works shall be sympathetic to the character of the original structure and the surround area including adjoining or nearby development". Objective 13.7 relates to Family/Granny flat extensions. The creation of a family flat, generically referred to as granny flats, to be occupied by a member of the occupant family, is generally acceptable, provided it is not a separate detached unit and it is possible to provide direct access to the remainder of the house. It is further required that there shall be no permanent subdivision of the garden/private amenity space. Flats shall not be let, sold or otherwise transferred, other than as part of the overall property and shall revert to being part of the original house when no longer occupied by the family member. From public view, the flat should retain the appearance of one single dwelling unit with the main house.

### 5.2. Natural Heritage Designations

The site is located neither within nor immediately abutting any European site. The closest such is Castlemaine Harbour SAC (Site code 000343), located some 0.9km to the southwest. There are no watercourses either on or immediately abutting the site. The closest such is the Douglasha Stream, some 0.2km to the west of the appeal site. This stream flows into the SAC some 1.0km further downstream. The Conservation Interests of Castlemaine Harbour SAC are as follows-

- Estuaries.
- Mudflats and sandflats not covered by seawater at low tide.
- Annual vegetation of drift lines.
- Perennial vegetation of stony banks.

- Vegetated sea cliffs of the Atlantic and Baltic coasts.
- Salicornia and other annuals colonising mud and sand.
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*).
- Mediterranean salt meadows (*Juncetalia maritimi*).
- Embryonic shifting dunes.
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes).
- Fixed coastal dunes with herbaceous vegetation (grey dunes).
- Dunes with *Salix repens* ssp. *argentea* (*Salicion arenariae*).
- Humid dune slacks.
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).
- *Petromyzon marinus* (Sea Lamprey).
- *Lampetra fluviatilis* (River Lamprey).
- *Salmo salar* (Salmon).
- *Lutra* (Otter).
- *Petalophyllum ralfsii* (Petalwort).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The appeal from Ger O’Keeffe Consulting Engineers Ltd, agent on behalf of Michael & Grace Cronin, Dromkerry, Fossa, received by the Board on 2<sup>nd</sup> October 2017, can be summarised in bullet point format as follows-

- A substantial portion of the access laneway serving this development is owned by the appellants. The Board has previously refused planning permission to Brenton Griffin & Frances Cronin to erect a house accessed from this same laneway – ref. PL 08.245430, on grounds that the junction with the country road is substandard.

- The access lane serving this site is on average 3m wide, and is inadequate to serve the proposed dwelling.
- It is noted that John O'Shea objected to the granting of planning permission for the Griffin/Cronin house on grounds of an inadequate access lane and poor sight visibility at the junction with the county road.
- The proposal is for a substantial addition to the existing house – an additional 165sq.m to a house of 124sq.m. This would appear to be over-development of the site. There are limited passing places on the access laneway and forward visibility is poor at bad bends.
- The owner of the applicant site has right-of-way only along part of the cul de sac access laneway.

6.1.2. The appeal is accompanied by the following documentation of note-

- Property Registration Authority map extract showing right-of-way on the cul de sac access laneway.

## 6.2. Applicant Response

6.2.1. The response of Reeks Consulting Engineers, agent on behalf of the applicant, Seamus O'Shea, received by the Board on 31<sup>st</sup> October 2017, can be summarised in bullet point format as follows-

- The appellant's family have lived at this site since 1900.
- The applicant's father formerly farmed this land, but has rented it out since retiring.
- A one-off house for the applicant was deemed to be unacceptable by KCC, in light of the Board's decision, ref. PL 08.245430. The applicant would have been entitled to a dwelling-house on the family landholding under the Rural Settlement Policy of KCC.
- The applicant's parents are anxious to have him live close by, as they are elderly.
- The design of the extension is in keeping with the existing house and the requirements of the Development Plan.

- A modern wastewater treatment system is proposed for the extended house – and this will have a positive environmental impact.
- The applicant and his family regularly traverse the laneway access, and have been resident here long before the appellants came to live in the area. The applicant visits his parents every day.
- The applicant will ultimately inherit this property from his parents.
- The construction of a new dwelling-house might result in the creation of additional traffic movements if the applicant's parents were to sell their house. But this cannot happen in the current instance.
- This proposal is not for an additional dwelling-house – but rather the extension of an existing dwelling-house.

6.2.2. The response is accompanied by a letter from the applicant, detailing his family's connection to the area. The applicant and his wife work in Killorglin, and the family lives in rented accommodation in Killorglin – having moved out of the parental house at Gortacolopa when their son was born. Neither the applicant's brother nor sister reside in Kerry, and he will ultimately inherit the family home.

### 6.3. **Planning Authority Response**

None received.

## 7.0 **Assessment**

### 7.1. **Design & Layout**

The existing two-storey house is stated to have a floor area of 124sq.m. The proposed family flat extension will have a floor area of 165sq.m. The existing house has painted plaster externally, and a mixture of slate/concrete tile/asbestos slate roofing. It is located on a ridge – affording expansive views to the Macgillycuddy Reeks to the south and across a small valley to the north. The external finishes of the proposed extension will match the existing house on the site. The roof will have blue/black slates. I would see no difficulty with the retention of the existing single-



storey conservatory to the side, and single-storey flat-roofed extension to the rear of the house – as provided for by way of additional information submission.

## 7.2. **Water**

### 7.2.1. Water Supply

The water supply to the existing house on this site is indicated as being from the public mains. This proposed family flat will be connected to the mains supply also.

### 7.2.2. Surface Water

Surface water will be discharged to soakpits, the location of which have not been indicated. Notwithstanding this lack of detail, KCC was satisfied to grant planning permission. It would be possible to attach a condition to any grant of planning permission from the Board, requiring that surface water be discharged to soakways within the site, and not discharged to site boundaries. I note that there is a drain filled with water on the southern boundary of the small field from which the extended site is to be carved. The site falls to the south – away from the cul de sac access laneway.

### 7.2.3. Foul Waste

There are rushes growing over part of the extended house site – notwithstanding that it was dry under foot on the date of inspection by this Inspector. Site investigations, carried out on behalf of the applicant, indicated a water table 1.3m below ground level in two trial holes. The site was determined not to be suitable for a septic tank. The septic tank serving the existing house on this site is to be removed, and replaced with a proprietary effluent treatment system ('Tricel' unit) and polishing filters to serve both the existing house and the proposed family flat. This is to be accomplished by installing a splitter box on the outfall from the effluent treatment unit, to divert wastewater to two distribution boxes on two vented polishing filters – constructed of imported soil. The Environment Section of KCC was satisfied that permission could be granted for this development, subject to attachment of appropriate conditions. This is likely to be an improvement on the existing situation, where a septic tank is serving the existing house – discharging to ground, which likely has the same characteristics as that encountered in site surveys.

### 7.3. Access & Traffic

- 7.3.1. The private access laneway, from which this site is to be accessed, is unsurfaced and badly potholed in places, and it is not wide enough for two cars to pass along most of its 0.6km length. The laneway serves as access to seven houses and to agricultural land – although the most recently constructed house on the laneway has alternative independent access to the L11012 county road. This laneway was not designed to serve as access to such a number of houses. There are two right-angled bends on the laneway, which restrict forward sight visibility. The laneway bifurcates close to the junction with the county road to the east – providing two points of access/egress, although it is noted that the northern one has recently been closed to vehicular traffic. Sight visibility at the remaining one is restricted to the north for vehicular traffic emerging from the laneway. There is no option to improve sight visibility, as the land is not in the ownership of the applicant or his family. Neither has the applicant submitted proposals to improve sight visibility at the junction.
- 7.3.2. The Board has previously refused planning permission for a house taking access off this lane (PL 08.245430), for reasons of traffic hazard. The original applicants have since obtained permission for a house from KCC, with alternative access provided directly off the county road in place of the original access from the private cul de sac laneway. This house has been built, although with optional vehicular access from both the cul de sac laneway and the L11012.
- 7.3.3. The applicant has stated that he would be entitled to a rural dwelling-house on the family land, by reference to the rural settlement policies contained in the Development Plan. Having regard to the decision of the Board to refuse permission (PL 08.245430); on the advice of KCC, it was decided not to seek planning permission for a separate house, but rather for an extension to the applicant's parents' house. In this manner, it was thought that there would be no likelihood of increased traffic movements as the two properties (original house and new family flat) would have to be occupied and owned as one unit, and could not be sold separately: something which could occur in the future, if a second stand-alone house was permitted for the applicant. Whilst this argument does have some logic to it – particularly in relation to a time in the future when the applicant's parents might no longer need or require to live at this location, and where their existing house might

be sold, it does not deal with the issue of additional traffic generated by an additional family flat unit on the site. The applicant, who currently resides in Killorglin, states that he currently visits his parents on a daily basis. The amount of additional traffic movements generated by such visiting, would not be the same as the amount of traffic movements generated by a separate household, notwithstanding that it was one living in a family flat physically attached to an existing house. The proposed development would generate additional traffic turning movements at a substandard junction on the L11012 county road.

- 7.3.4. An existing house is to be extended (albeit to provide for an additional flat), and the extended area would result in a building with an overall floor area of 290sq.m. This quantum floor area is not excessive – regard being had to the size of houses currently being built in the Irish countryside. The Planning Acts do not place restrictions on the number of occupants within a house or on car ownership or usage by occupants. For this reason, I would consider that the proposed development could be countenanced (as it serves the specific needs of a family currently residing in the area) – even though the junction of the access laneway and the L11012 is substandard, as indeed is the laneway itself in terms of alignment, width and surfacing.

#### 7.4. **Appropriate Assessment**

The closest European site is located some 0.9km to the southwest of the appeal site – somewhat further by way of the nearest watercourse. There are no watercourses either within or immediately abutting the appeal site. The existing house on this site is served by a septic tank. Site investigation reports revealed a water table 1.3m below ground level. It is proposed to replace the existing septic tank system with a proprietary effluent treatment system and two constructed polishing filters. The new system, if properly maintained, will offer a better level of effluent treatment than exists at present on this site. The general fall of ground in the area is towards the Castlemaine Harbour SAC. Having regard to the fact that the proposal is for an extension to an existing house, and the proposal for a replacement of an existing septic tank system with a proprietary effluent treatment system, I would consider it

reasonable to conclude on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site No. 000343, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

## 7.5. Other Issues

### 7.5.1. Financial Contributions

KCC attached a condition requiring payment of a development contribution of €1,500 to the grant of planning permission. If the Board is minded to grant planning permission, a similarly-worded condition should be applied.

### 7.5.2. Archaeology

The proposed development will result in an expansion of the curtilage of an existing older farmhouse into an adjoining field. The Sites & Monuments Record of the OPW indicates no recorded monument in the vicinity of the site.

## 8.0 Recommendation

8.1. I recommend that permission and retention permission be granted for the Reasons and Considerations set out below, and subject to the attached Conditions.

## 9.0 Reasons and Considerations

Having regard to the stated housing need of the applicant, the family flat nature of the proposed development, the limited nature of the extensions to the existing house for which retention permission is sought, the proposals to upgrade the effluent treatment provisions for the existing house and proposed family flat; it is considered that, subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health, would not seriously injure the amenities of the area or property in the vicinity, and would be acceptable in terms of

traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained, carried out, and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted on the 5<sup>th</sup> day of May, the 26<sup>th</sup> day of July and the 11<sup>th</sup> day of August 2017, 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. The external finishes of the proposed extension (including roof tiles and slates) shall be the same as those of the existing dwelling-house in respect of colour and texture.

**Reason:** In the interest of visual amenity.

3. The existing dwelling-house and the proposed family flat extension shall be jointly occupied as a single residential unit and shall not be sold, let or otherwise transferred or conveyed, save as part of the one dwelling-house unit.

**Reason:** To meet the stated housing need of the applicant and to restrict the use of the extension in the interest of residential amenity and traffic safety.

4. 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.

5. All surface water generated within the site boundaries shall be collected and disposed of to soakways within the curtilage of the site.

**Reason:** In the interest of public health.

6. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority with the application, and in accordance with the requirements of the Environmental Protection Agency document “Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.< 10)”. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, with planning authority prior to commencement of any new development.

(b) Within three months of the first occupation of the family flat, the developer shall submit a report from a suitably-qualified person with professional indemnity insurance, certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details, and is working in a satisfactory manner in accordance with the standards set out in the above-referenced EPA document.

**Reason:** In the interest of public health.

7. The extended site area shall be fenced off from the remainder of the field in which it is located, to prevent trespass by farm animals or machinery onto the effluent treatment plant and soil polishing filters.

**Reason:** In the interest of public health.

8. The existing septic tank on site shall be decommissioned on completion of the new effluent treatment system, and shall be emptied and back-filled.

**Reason:** In the interest of public health.

9. 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.

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**Michael Dillon,  
Planning Inspectorate**

**22<sup>nd</sup> December 2017.**