



An
Bord
Pleanála

Inspector's Report ABP-303815-19

Development	Construct a dwelling house and ancillary services and areas.
Location	Poulnamuck, Mill Road, Killarney, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	18/570
Applicant(s)	Neilie Hickey
Type of Application	Permission
Planning Authority Decision	Grant, subject to 13 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Stella Maloney & Brian Looney
Observer(s)	None
Date of Site Inspection	3 rd May 2019
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located in Poulnamuck, a townland in the southern outskirts of Killarney Town, some 1.6 km from the town centre and to the south of the River Flesk and to the east of Lough Leane. This site lies within lands that the applicant is developing for housing and which are located off the southern extremity of the Elmwood Housing Estate. It is accessed off Mill Road via this Estate. Mill Road is a NE/SW route, which runs effectively between the Cork Road (N22) and the Muckcross Road (N71). Along its NE and central portions, this Road runs through countryside, while along its remaining SW portion it runs through residential development to its junction with Muckcross Road, just prior to which it serves the Killarney Convention Centre and its car park. Mill Road is of narrow width and it is devoid of public footpaths.
- 1.2. The site is of rectangular shape and it extends over an area of 0.07 hectares. This site is accessed by means of an on-site access road, which serves the applicant's aforementioned lands. The site is positioned off the south western side of this road and it abuts the south western boundary of these lands. It presently forms part of a field and so its other two boundaries are undefined "on the ground".

2.0 Proposed Development

- 2.1. The proposal would entail the construction of a single two storey dwelling house in a central position on the site with its principal elevation addressing the on-site access road.
 - As originally submitted, this dwelling house would have afforded three-bedroom accommodation over a floorspace of c. 178 sqm. Its conventional design would have entailed a rectangular two storey form with a central gabled feature on a strongly symmetrical principal elevation.
 - As revised, it would afford four-bedroomed accommodation over a floorspace of c. 194 sqm. Its contemporary design would entail a rectangular two storey form with a single storey element to the front with a continuous canopy wrapping around its easternmost corner to provide a car port.
- 2.2. The proposal would be served by a dedicated access from the said on-site access road and a parking area would be laid out to the front of the dwelling house.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted subject to 13 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was requested concerning the following:

- Under the Killarney Town Development Plan 2009 – 2015 (TDP), the site is zoned “residential phase 2” and so there is need for the applicant to clarify his circumstances and housing need.
- Attention is drawn to the site’s inclusion within a previous application (18/381) for 7 no. dwelling houses, which was invalidated. Piecemeal development may thus occur and so a masterplan for the overall site was requested.

3.2.2. Other Technical Reports

- Irish Water: No objection: Applicant advised that it would be his responsibility to bring the connections from the public water mains and sewer some 85m from the site.

4.0 Planning History

Site:

- Pre-application consultation occurred in June 2018.

Site and surrounding sites:

- 97/1366 & PL08.105377: 11 no. dwelling houses refused at appeal, on the grounds of unsatisfactory footpath provision between the site and Muckross Road, and visual obtrusion from Muckross Road resulting from the two-storey form of the dwelling houses.

- 25/98 & PL08.106206: 11 no. dwelling houses refused at appeal on the same grounds as those cited above.
- 18/381: 7 no. dwelling houses, including one on the current subject site: Invalidated.

Adjacent sites to the north of the subject site:

- 12/205333: Permission for dwelling house and works to service road: this dwelling house is nearing completion on-site,
- 14/205494: Permission for dwelling house on site denoted as No. 1: foundations laid out on-site, and
- 17/426: Permission for dwelling house on site denoted as No.2: yet to commence on-site.

5.0 Policy and Context

5.1. Development Plan

Under Variation 4 of the Killarney Town Development Plan 2009 – 2015 (TDP), the site is now zoned R1, new/proposed residential phase 1, having been previously been zoned residential phase 2. (This Plan has been extended until 2021).

The Killarney Municipal District Local Area Plan 2018 – 2014 (LAP) shows, for information purposes, the TDP's zonings. This Plan relates directly to the environs of the town and it shows a proposed N71 – N22 link road to the south of the site, which would coincide initially with Loretto Road.

5.2. Natural Heritage Designations

- Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC & pNHA (site code 000365)
- Killarney National Park SPA (site code 004038)
- Sheheree (Ardagh) Bog SAC & pNHA (site code 000382)

5.3. EIA Screening

Under Items 10(b)(i) & (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2018, where more than 500 dwelling units would be constructed and where 10 hectare-urban sites would be developed, the need for a mandatory EIA arises. The proposal is for the development of a 0.07-hectare site to provide a dwelling house. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The appellants do not contest the principle of constructing a dwelling house upon the subject site. Instead they challenge the Planning Authority's approach in failing to take a strategic approach to the development of the lands in question. The following grounds are cited:

- Attention is drawn to the current proposal for the sixth dwelling house on lands that were previously the subject of applications for 11 dwelling houses, which was refused at appeal (PL08.105377 & PL08.106206). These lands have recently been rezoned from Residential Phase 2 to New/proposed Residential Phase 1. No further development should, however, occur until improvements have been carried out to Mill Road to ensure that vulnerable road users are properly provided for.

The need for such improvements was raised during the consultation period for the LAP and accepted in principle by the Chief Executive. Nevertheless, 30% of new residential development is to go on infill sites/sites contiguous with established residential areas, provided regard is had to flood risk, archaeological potential, and access. The appellants contend that, in the case of the subject site, access was not properly assessed with respect to the said lands.

- Notwithstanding the LAP's promotion of walking, cycling, and road safety, no specific proposals with respect to Mill Road are cited therein.
- The Board has previously highlighted the need of a public footpath along Mill Road in its refusals of the above cited proposals for 11 dwelling houses. Likewise, the Planning Authority referred to this deficiency and that of streetlighting in its refusal of application 10/205124 for 16 dwelling houses in the townland of Coolclogher, which would have been accessed off Mill Road. The appellants draw attention to the increased usage of Mill Road and yet the above deficiencies persist, e.g. traffic generated by the location of the Irish National Event Centre at the nearby Gleneagles Hotel.
- Attention is drawn to the 22 dwelling houses and extant permissions for 2 further dwelling houses, all of which are/would be served by Mill Road. This represents an increase over the situation that pertained at the time of the Board's aforementioned refusals and it has arisen from the Planning Authority's piecemeal approach to development.
- Attention is also drawn to the junction between Elmwood and Mill Road. This junction serves the subject site and it suffers from the absence of a clear south westerly sightline for drivers emerging from Elmwood. The discreteness of the junction, vehicle speeds along Mill Road, and the narrowness of Elmwood are all cited as further factors that contribute to hazard and attendant collision risk.
- Alternatively, it may be possible to provide a direct pedestrian route between the rezoned lands and Muckross Road.
- Beyond road safety, other issues would benefit from a comprehensive rather than a piecemeal approach to the development of the applicant's lands. Thus,
 - The appropriate height of dwelling houses within the context of single, dormer, and one-and-a-half storey dwelling houses,
 - An appropriate transition between tourist accommodation on Muckross Road and the residential development to the north east,
 - The provision of open space, and

- The containment of any construction period timewise.

6.2. Applicant Response

- The applicant draws attention to the award-winning scheme of 11 dwelling houses comprised in Elmwood, which he built. He also draws attention to the appellants' dwelling house, which he, likewise, built. (At that time the appellants were advised of his future development plans). This dwelling house incorporates a balcony, which overlooks the subject site.
- Under the recent rezoning of the applicant's lands, he intends to prepare a masterplan for their development. In this respect, he is in discussion with the Planning Authority about such development. The current proposal would be a small part of this overall development and so its impact upon road safety would not be significant.

6.3. Planning Authority Response

- Attention is drawn to the revised zoning of the site, which was introduced under Variation 4 to the TP.
- Attention is also drawn to the discussion cited by the applicant and to the view that the development of the subject site, as proposed, would not impede the subsequent development of the overall site.

6.4. Observations

None

6.5. Further Responses

The appellants have responded to the Planning Authority's response to their grounds of appeal by stating that it has not addressed these grounds and it has not explained why permission was granted in the absence of the sought-after masterplan.

7.0 Assessment

7.1. I have reviewed the proposal in the light of the national planning guidelines, the TP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use, planning history, and access,
- (ii) Development standards and amenity,
- (iii) Water, and
- (iv) Appropriate Assessment.

(i) Land use, planning history, and access

- 7.2. The site comprises a single house plot within a more extensive area of land that the applicant is presently developing for housing. Under Variation 4 of the TDP, the previous zoning of this land as “residential phase 2” has been replaced with the current zoning “new/proposed residential phase 1”. Accordingly, there is no in principle land use objection to the development of it for residential use and the former requirement that the applicant demonstrate a housing need no longer applies.
- 7.3. The site forms part of the applicant’s wider landholding. Under the TDP, those parts of this holding that are currently under development are zoned “existing residential”, those parts on either side of the site and to the north west are zoned “new/proposed residential phase 1”, and the remaining south west part is zoned “tourism and related”.
- 7.4. The planning history of the south eastern portion of the applicant’s land, which includes the subject site, indicates that 11 two storey dwelling houses were previously proposed for this portion. They were refused at appeal on two occasions in the late nineties, on the grounds of unsatisfactory footpath provision between the site and Muckcross Road (N71) and visual obtrusion when viewed from this Road.
- 7.5. Since the late nineties, the applicant has obtained permission for the development of 4 of the 11 house plots. During my site visit, I observed that a dwelling house has been provided on one of these plots, another is nearing completion, foundations have been laid for another, and one has yet to be developed. I also observed that

Mill Road remains devoid of footpaths and so pedestrians between the site and Muckcross Road, who may wish to walk to and from Killarney town centre, have to walk along the sides of this Road without the benefit of dedicated space free from vehicles.

- 7.6. In 2018, the applicant applied for permission to develop the remaining 7 house plots. This application was invalidated and, instead of reapplying, he has applied for a dwelling house on the subject site only. Under further information, the applicant was requested to submit a masterplan for his landholding, in order to allay the risk of piecemeal development and to facilitate a fuller assessment of road safety and open space provision. The applicant responded by stating that he was in discussion with the Planning Authority on the preparation of such a plan. Now, at the appeal stage, he reports that this continues to be the case.
- 7.7. The appellants draw attention to the planning history of the site and to the instances of other dwelling houses, which are accessed off Mill Road, that have been built since the late nineties. They also draw attention to a proposal for 16 dwelling houses in Coolclogher, which would have been accessed off Mill Road, and yet which was refused by the Planning Authority, partly on the grounds of “the lack of public footpaths and lighting serving the area.” This site was towards the north eastern end of Mill Road, while at the south western end, adjacent to its junction with Muckcross Road, the opening of the Irish National Event Centre/Killarney Convention Centre has added to traffic movements at this junction and Mill Road has generally become more heavily trafficked. They thus contend that the previously identified need for public footpaths on Mill Road is greater again than it was in the late nineties.
- 7.8. The appellants implicitly recognise that the provision of public footpaths along Mill Road may be difficult to achieve, in practise, and so they recognise that other means of providing pedestrian access to the applicant’s land from Muckcross Road may need to be explored. In this quest, the LAP is supportive as it seeks to promote walking, cycling, and road safety. They are thus mystified by the Planning Authority’s willingness to grant permission in the absence of a masterplan, within which such provision could be addressed.
- 7.9. The Planning Authority has responded by stating that the subject site could be developed without impeding the subsequent development of the remainder of the

site. The Authority has not elucidated this statement and so I can only presume that it is informed by the layout that was submitted under the above cited invalidated application for 7 dwelling houses.

7.10. Whereas the appellants cite the LAP, the TDP remains the operative plan for the site. Nevertheless, the support cited for walking is reflected in this Plan, which, interestingly, predates prioritising of the needs of pedestrians in the Design Manual for Urban Roads and Streets (DMURS). Relevant extracts from it are set out below:

- Under Objective 8.1.1(f), a specific goal is “To widen and re-align sections in Mill Road (RW02).”
- Objective 8.1.4 states, “To promote the development of a coherent network of routes and facilities for pedestrians and cyclists with equal access for all”, and item (b) attached to this Objective states, “To construct lighted roadside footpaths on both sides of all public roads. Where appropriate, special levies to cover the cost of provision of same will be applied to new developments that give rise to the need for the same.”

National and local planning policies thus speak with one voice: the needs of pedestrians should be attended to as a matter of priority.

7.11. In the light of the foregoing discussion, I am concerned that against the backdrop of the Board’s previous decisions and increased usage of Mill Road, a pattern of repeated planning applications for individual dwelling houses is developing, any one of which is considered to contribute insignificantly to additional traffic movements on Mill Road, but which collectively over the applicant’s entire landholding could be expected to do so. I am concerned, too, that the opportunity to consider all possible means of pedestrian access may be forfeited in the absence of a masterplan. In this respect, I note that “on the ground” the 4 dwelling houses permitted to date are for plots adjacent to the entrance to the site and so of no relevance to possible pedestrian routes to Muckcross Road. This favourable situation would begin to change with the development of the subject site and the layout of house plots that it appears to presuppose.

7.12. During my site visit, I observed that the profile of the completed two storey dwelling house on the opposite side of the on-site access road from the subject site is unobtrusive when viewed from Muckcross Road, due to the presence of deciduous

trees, hedgerows, and buildings along the north eastern side of this Road. The Board's previous concerns in this respect can thus be allayed.

- 7.13. I also observed that the sightlines at the junction between Elmwood and Mill Road available to drivers exiting from this cul-de-sac are sub-standard, to the north east especially, due to the presence of hard and soft front boundary treatments to residential properties. While the alignment of Mill Road is straight in the vicinity of this junction, the junction itself is discrete and so yellow lines have been painted across the carriageway, along with the word "slow" to draw attention to its presence. Conceivably, the introduction of public footpaths on the nearside of Mill Road could assist with the improvement of these sightlines and signage/bollards could assist further with the need to highlight the presence of the junction.
- 7.14. I conclude that, while there is no in principle land use objection to the proposal, the previously identified deficiency in pedestrian facilities along Mill Road needs to be addressed before further development that is accessed off this Road can be entertained.

(ii) Development standards and amenity

- 7.15. The proposed two storey dwelling house, as revised, would exhibit a bold form and contemporary design. Other permitted two storey dwelling houses on the applicant's land would exhibit conventional and contemporary designs and so the currently proposed one would add to the variety already envisaged. As two storey dwelling houses are being developed in positions adjacent to the site, I do not consider that the appellants references to lower dwelling houses in the wider area are of the same relevance aesthetically as these ones.
- 7.16. The proposed dwelling house, as revised, would provide four-bedroomed accommodation over a floorspace of c. 194 sqm. Thus, from an internal floorspace perspective, this dwelling house would afford a satisfactory standard of amenity to future occupiers.
- 7.17. The appellants draw attention to the tourist uses to the south west of the site and the need for an appropriate transition. During my site visit, I observed that the nearest such use is a caravan and camping site and that pitches for caravans and mobile homes are sited close to the south western boundary of the site. This boundary is denoted by trees and a hedgerow, which are only shown indicatively on the

submitted plans. The proposed dwelling house would be sited, whereby its rear elevation would be between 8.5m and 12.5m from this boundary. Given this proximity, I consider that the existing boundary treatment should be retained and augmented to ensure that a satisfactory standard of amenity could be achieved for future occupiers. If the Board is minded to grant permission, then the submission of a detailed site plan showing existing soft landscaping and proposed soft and/or hard landscaping should be conditioned.

7.18. I conclude that, subject to additional landscaping, the proposal would be compatible with the visual and residential amenities of the area and it would afford a satisfactory standard of amenity to future occupiers.

(iii) Water

7.19. The applicant states that the proposed dwelling house would be connected to the public water mains and sewerage system. Irish Water has raised no objection to such connection, but it advises that the relevant utilities would be 85m away from this dwelling house and so it would be the applicant's responsibility to lay pipes/drains over this intervening distance.

7.20. The applicant states that the proposed dwelling house would be connected to the public sewerage system for the purposes of surface water disposal, too. Such connection would, apart from in exceptional circumstances, be inappropriate as SuDS methodologies would not be upheld thereby. I am not aware that such circumstances prevail and so, again, if the Board is minded to grant permission, then a condition concerning the same should be attached.

7.21. Under the OPW's flood information maps, the site is not shown as being the subject of any identified flood risk.

7.22. I conclude that, provided SuDS methodologies are employed, the water supply and drainage aspects of the proposal would be satisfactory.

(iv) Appropriate Assessment

7.23. The site does not lie in a Natura 2000 site. The nearest such sites are the River Flesk to the north and Lough Leane to the south, both of which form part of the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC and the latter of which forms part of the Killarney National Park SPA. I am not aware

of any source/pathway/receptor route between the site and these or any other Natura 2000 sites. Furthermore, as the site lies in an urban area, the qualifying interests of the SPA, i.e. Merlin and Greenland White-fronted Goose, would not rely upon it as part of their wider habitats. In these circumstances, I consider that the proposal would be unlikely to significantly effect the Conservation Objectives of these Natura 2000 sites.

- 7.24. Having regard to the nature and scale of the proposal, no Appropriate Assessment issues arise, and it is not considered that the proposal 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. That permission be refused.

9.0 Reasons and Considerations

Having regard to the prioritisation of pedestrian facilities under the Design Manual for Urban Roads and Streets and the importance of public footpath provision under Objective 8.1.4 (b) of the Killarney Town Development Plan, it is considered that the absence of pedestrian facilities/public footpath provision on Mill Road is unsatisfactory, as it effectively severs the otherwise continuous public footpath between the site and Killarney town centre.

The development of the site, as proposed, to provide a dwelling house would continue a pattern of piecemeal development on the applicant's lands and it would establish a precedent for the perpetuation of this pattern. The vehicular and pedestrian traffic generated by this pattern would of necessity use Mill Road and so it would add to existing traffic on this Road and, consequently, worsen the danger to public safety that it poses in the absence of public footpaths.

Accordingly, to accede to the proposed dwelling house, in these circumstances, would contravene the above cited national and local planning objectives and endanger further public safety. It would, thus, be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

22nd May 2019