



An  
Bord  
Pleanála

## Inspector's Report ABP-303974-19

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<b>Development</b>	Dwelling, garage and septic tank
<b>Location</b>	Cromane Lower, Killorglin, County Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	18/891
<b>Applicant(s)</b>	Frank Casey
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Alan O'Sullivan
<b>Date of Site Inspection</b>	20 <sup>th</sup> May, 2019
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The 0.44 hectare site is located in the coastal village of Cromane, approximately 8km west of Killorglin in County Kerry. The site has frontage onto a minor local road to the south and onto a local road to the east. There is a junction opposite the site to the east with a local road that forms the principal link to Killorglin. The village church is located to the south-east of the junction. There are numerous detached houses within the village, primarily to the south and south-east of the site. The appellant's house is located opposite the site to the east.
- 1.2. The site consists of a field sloping in a northerly direction bounded by agricultural lands to the north and west. A two-storey house adjoins the south-eastern end of the site and a vacant traditional single-storey cottage abuts the southern end of the site's eastern road frontage.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the construction of a four bedroom, two-storey house and detached garage. The house would have a gross floor area of 276.7 square metres and the garage would be 64 square metres in area. The development would be served by a mains water supply and a septic tank and percolation area.
- 2.2. Details submitted with the application included a letter from the landowner permitting the making of the planning application and a site assessment report relating to the proposed effluent disposal system. The applicant also provided details of his association with the area in which the site is located.
- 2.3. The applicant also submitted unsolicited information twice, first in response to the objections made by Alan O'Sullivan and Kathleen O'Sullivan and then in the form of a response to a second submission by Alan O'Sullivan following the submission of further information.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 20<sup>th</sup> February, 2019, Kerry County Council decided to grant permission for the proposed development subject to 20 conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted development plan provisions, third party submissions and reports received. It was noted that the site is zoned proposed residential in the Cromane Local Area Plan. The development was seen to have a visual impact on the approach from the north. It was considered that there would be no loss of residential amenity arising from the proposal. It was recommended that further information be sought in relation to sightlines at the proposed entrance, relocation of the house on the site and reducing the finished floor level, and the landowner's holding.

Following the receipt of the further information, the Planner noted the applicant's response and recommended that permission be granted subject to conditions.

#### **3.2.2. Other Technical Reports**

The assessor for the Site Assessment Unit of the Environment Section submitted that he felt that a positive recommendation is appropriate, having assessed the applicant's site characterisation report for the proposed effluent treatment system. A schedule of conditions was set out. It is noted that the assessor for the Site Assessment Unit states in the report that he did not visit the site.

### **3.3. Prescribed Bodies**

Irish Water had no objection to the proposed development.

### 3.4. **Third Party Observations**

Objections to the proposal were received from Kathleen O'Sullivan and Alan O'Sullivan. Concerns raised included land ownership, drainage, access and impacts on residential amenity.

### 4.0 **Planning History**

I have no record of any previous planning application or appeal relating to this site.

### 5.0 **Policy and Context**

#### 5.1. **Killorglin Functional Area Local Area Plan**

##### Cromane Local Area Plan

##### *Zoning*

The site is zoned 'Residential (proposed)'.

##### *Infrastructure*

The Plan notes that there is no waste water treatment infrastructure in the village and dwellings are served by individual septic tanks and waste water treatment systems. It is stated that a plan is in place for the provision of wastewater infrastructure for the village but that it is unlikely that this will be implemented during the lifetime of the plan. Consequently this will act as a constraint on development over the plan period.

##### *Urban Form*

It is stated that the plan area known as Cromane Upper has developed around a central crossroads and that development, while identifiably urban at its core, is characterised by the fragmented building line often evident in small villages. Development here is found to consist of single dwellings and detached properties such as the old abandoned Post Office, Community Centre, Church, Fish shop and some residential clusters. It is noted that there are a number of vacant infill sites. The appeal site is located adjacent to the central crossroads.

### *Archaeology and Built Heritage*

The Plan notes that there are no recorded monuments or protected structures within the plan area. However, reference is made to an early 19th century cottage at a prominent central location at the main crossroads in the village which remains unaltered and which is an excellent example of a traditional Irish cottage. It is deemed to be of sufficient architectural and heritage value, but while it is not included in the Record of Protected Structures, conservation and restoration of this building is encouraged.

This referenced building is the structure abutting the south-east section of the site.

### *Growth and Residential Development*

The Plan states that it is important that the village caters for detached dwellings that would otherwise be met in the surrounding rural area where the level of development is reaching urban densities at some locations.

### *Development Strategy*

The following is set out:

*“The future development strategy will provide for the modest development of Cromane as a small rural village on a scale commensurate with its infrastructural capacity. The lack of a public foul sewer infrastructure in the area has contributed to the large amount of dispersed rural dwellings in particular on the approach road to the village from the west.*

*The strategy will therefore allow for permanent residential development and will enhance the urban form of village core. The development of a village centre with appropriate streetscape on the approach roads is envisaged. It is also anticipated that infill sites within the village centre will be developed initially and the zoned lands on the periphery will be developed hereafter in a sequential manner, if demand arises.*

*All development will by its nature and design contribute to creating an identity and sense of place. This will be achieved by ensuring new developments are of an appropriate local scale, and contribute to improvements in its urban form, and which preserve the character of the rural village.”*

### *Overall Objectives*

These include:

#### **00-1**

Encourage the development of a compact and sustainable village structure by ensuring that new development is contiguous with existing development and makes effective use of backland and infill sites.

#### **00-2**

Ensure that the high quality natural setting of the village is maintained and protected from inappropriate development.

#### **00-4**

Ensure that new residential development shall be small-scale and low density with individual residential units served by individual treatment units/septic tanks, pending construction of a wastewater treatment plant in the village.

### *Specific Objectives*

#### **Built Environment**

These include:

#### **AH-1**

Preserve the village's architectural heritage and encourage development to be designed in a manner that is in keeping with the scale and character of the existing village. New developments should respect local design features.

#### **AH-3**

Encourage the appropriate reuse and sensitive conservation of the early 19th century cottage at the prominent central location at the main crossroads in the village.

#### **Residential Amenity**

These include:

#### **R-3**

Ensure that the lands zoned for residential development should be reserved for permanent residential occupation only.

## 5.2 **Appropriate Assessment**

It is reasonable to conclude that 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 any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## 5.3 **EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The grounds of the appeal may be synthesised as follows:

- The applicant did not reduce the floor level of the house by one metre as requested by the Council.
- The applicant is totally opposed to moving the house 10 metres to the north of the site as requested by the Council. Moving it to the south and reducing the finished floor level is the best decision possible as it would lessen the impact on the winter sun.
- The further north the house is situated it is going to lessen the impact on the public viewing area enjoyed by visitors.
- The scale and height of the structure will affect light into the appellant's kitchen and living room. The roof line should not be further north than the roof line of the neighbouring work shed.
- There is concern the proposal will be a holiday home or a short term let house for the applicant and his wife as neither work in the area.

The appeal includes attached photographs.

## 6.2. Applicant Response

The applicant's response to the appeal included full details of the Cromane Local Area Plan and how the proposed development is compliant with its provisions, objections received and responses thereto, the Planner's reporting, further information submitted, details of the applicant's compliance with rural settlement requirements, site suitability for septic tank drainage, and it addresses the grounds of the appeal itself. The response to the appeal may be summarised as follows:

- The applicant satisfies the rural settlement requirements for a permanent residence within a site that is zoned for residential development.
- The Site Characterisation Form indicates that the site is suitable for on-site treatment.
- The main views are to the north-west and are not impeded.
- The revised drawings submitted to the planning authority show the proposed finished floor level was reduced by one metre.
- The location of the front building line of the single storey section of the house is 33.5m from the front of the appellant's house.
- The ridge height of the appellant's house is 6.7m. The ridge height of the proposed house is 6.9.18m. The proposal includes the cutting into the ground of a section at the south-west. Based on the location of the house and on its distance from the appellant's house, there will be no diminution of light into the appellant's property.
- The appellant appears to be referring to blocking a view of the sun which is totally different to blocking sunlight.
- Due to distance, there will not be a shadow impact on the appellant's house.

## 6.3. Planning Authority Response

The planning authority submitted that the main ground of appeal relates to blocking of sunlight to the appellant's house during winter months. It is noted that the appellant's house is on the opposite side of the road and that, from application details, the roof ridge of the proposed house would be over 45 metres to the west of



the western wall of the appellant's house and would be 0.4m lower than the ridge of the appellant's house. It is concluded that the proposal would not impact negatively on the amenities of the appellant's property.

## 7.0 **Assessment**

### 7.1. Introduction

7.1.1 In addressing the proposed development *de novo*, I consider that the principal planning issues are:

- The development in the context of the Cromane Local Area Plan,
- Impact on residential amenity,
- Traffic impact, and
- Effluent disposal.

7.1.2 I note that in support of the response to the appeal the applicant addressed all of these issues. Thus, the consideration of these raise no new issues.

### 7.2. The Development in the Context of the Cromane Local Area Plan

7.2.1 The Cromane LAP sets out details on the nature and extent of existing development, the context for new development, and schedules a range of objectives for the further development of the village. In reviewing a wide range of the Plan's provisions, my considerations on a number of issues relevant to the assessment of the proposed development are as follows:

#### *Urban Form*

7.2.2 The village core of Cromane has developed around a central crossroads. There is no orderly building line of development of high density within this village core, but rather there is a fragmented building line and linear pattern of development adjoining the junction and along the few local roads in the vicinity. Residential development consists of single dwellings generally on large sites. The appeal site lies immediately west of the central crossroads and can, therefore, be understood to be within the village centre.

### *Zoning*

7.2.3 All lands to the south and east of the appeal site on which there is existing housing are zoned 'Residential (existing)' in the Plan. The appeal site forms part of a plot of land to the west of the central crossroads that is zoned 'Residential (proposed)'. The site forms a significant proportion of the land area of this plot. It is apparent therefore, that the appeal site and the land to the west of it are designated for the development of housing over the lifetime of the Plan. Indeed, this plot forms the main plot in the village proposed for the development of housing. Having regard to this, it is reasonable to determine that the principle of the development of a house on this plot is acceptable.

### *Infrastructure*

7.2.4 The Plan notes that there is no waste water treatment infrastructure in the village and dwellings are served by individual septic tanks and waste water treatment systems. It is stated that a plan is in place for the provision of wastewater infrastructure for the village but that it is unlikely that this will be implemented during the lifetime of the LAP. As a consequence, the lack of waste water treatment infrastructure is seen to act as a constraint on development over the plan period. I note that this constraint is guided by the village's Development Strategy which is addressed below.

### *Archaeology and Built Heritage*

7.2.5 There are no recorded monuments or protected structures within the Plan area. However, there is a single reference in the LAP to one structure of built heritage value, namely the 19th century cottage abutting the south-east section of the appeal site. This structure is acknowledged as being at a prominent central location at the main crossroads in the village and one which is a building that remains unaltered, forming an excellent example of a traditional Irish cottage. It is deemed to be of architectural and heritage value and the conservation and restoration of this building is encouraged.

7.2.6 I first note for the Board that the existing 19<sup>th</sup> century cottage remains in place. Its heritage value, in the context of its traditional built form and the contribution it makes to the architectural heritage and understanding of the history of this location, should not be under-estimated as modern housing erodes, undermines and eliminates the traditional buildings in this village. The LAP has a Specific Objective (AH-3) to encourage the appropriate reuse and sensitive conservation of this early 19<sup>th</sup> century cottage at this prominent central location at the main crossroads. Further to this, Objective AH-1 seeks to preserve the village's architectural heritage and encourage development to be designed in a manner that is in keeping with the scale and character of the existing village. New developments are required to respect local design features.

7.2.7 While I note that the existing cottage is not a Protected Structure, in the context of the LAP, its conservation and re-use is a specific objective for this structure. Clearly, development in the immediate vicinity must be seen to protect the integrity of this structure, must be designed to respect the scale and character of this structure of architectural heritage, and must facilitate its conservation and re-use. This crossroads is the most visually prominent location on the main entry into the village from Killorglin. The cottage occupies a very prominent position at the end of the vista when approaching from the east. I have no doubt that the reality of developing a large two-storey house of contemporary design immediately behind this structure, and its occupancy, would completely envelope this traditional cottage. The integrity of this structure would be seriously undermined by the development of the proposed house. In seeking to remedy the adverse effects, one cannot simply tweak the location of the proposed house on this site. If one is to be serious about protecting the integrity of the established structure then one must consider a significantly more modest structure and a much more sensitive siting of development in the vicinity of this cottage. In my opinion, the designation of this site and the remainder of the plot of land behind it that are together designated as 'Residential (proposed)' in the LAP should appropriately be designed and developed as an inter-related scheme. In this way, an appropriate buffer could be incorporated to protect the integrity and, indeed, the prominence of the 19<sup>th</sup> century cottage, while gaining a more sustainable form of development in a village where zonings for new residential development are very limited. One should not eliminate the potential to protect and conserve this structure

and to allow for an alternative functional use into the future by facilitating the development of the house the subject of this appeal. It would be entirely unsustainable to allow this to occur. Indeed, I would suggest that the development of the proposal would ensure that the cottage would rapidly become derelict in the short term and the structure would be lost as its presence and deteriorating condition would encroach on the appearance of the new house and its curtilage.

7.2.8 In conclusion, I cannot see how the proposed development could be seen to be compatible with the LAP's objectives relating directly to the 19<sup>th</sup> century cottage. I note that the Council's Planner listed a wide range of objectives in the LAP and failed to reference the sole structure noted in the Plan as being of built heritage value abutting this site, to address Objective AH-3, and to consider the impact of the proposed development on this structure in the context of the requirements of the Plan.

#### *Growth and Residential Development*

7.2.9 I note that the Plan states that it is important that the village caters for detached dwellings that would otherwise be met in the surrounding rural area where the level of development is reaching urban densities at some locations.

7.2.10 In my opinion, this is a most desirable approach in this rural location to curtail the undesirable sprawl of housing in the countryside. The principle of the development of a house on lands zoned for residential purposes is wholly accepted as being in compliance with this aim for the residential development of the village.

#### *Development Strategy*

7.2.11 In the context of the Development Strategy, I again submit that the principle of the development of a house on lands zoned for residential purposes can be accepted as being in compliance with the overall aim of such a Strategy. The difficulty that arises is how one provides for sustainable residential development on the very few plots designated for residential purposes. The site forms part of the most substantial designated residential plot and occupies a very significant proportion of it. The layout, form and scale of the proposed development is disconnected with a small

rural village form and, importantly, fails to enhance any pattern of a village centre with an appropriate streetscape presence on this most prominent location. The Board should note that this site is not alone highly prominent on the approach from the east but is also highly prominent on the local road approach from the north.

7.2.12 The Development Strategy states:

*All development will by its nature and design contribute to creating an identity and sense of place. This will be achieved by ensuring new developments are of an appropriate local scale, and contribute to improvements in its urban form, and which preserve the character of the rural village.*

I suggest to the Board that the proposed large and highly prominent house could not reasonably be seen to be of an appropriate local scale that would contribute to improvements in urban form, or in any way be seen to preserve the character of the village.

#### *Overall Objectives*

7.2.13 With reference to the Objectives, I submit that the proposed development would not encourage a compact and sustainable village structure (00-1) by the very poor utilisation of a significant proportion of the main plot zoned residential (proposed) in this village. It would constitute inappropriate development that undermines the natural setting of the village (00-2) and could not be seen to be small-scale residential development (00-4) suited to this sensitive crossroads location.

#### *Specific Objectives*

7.2.14 With reference to Objective R-3 in relation to residential amenity, I accept that the proposed dwelling is intended for permanent residential occupation.

7.2.15 In conclusion, it is my submission to the Board that the proposed development contradicts critically important provisions of the Cromane LAP. I cannot reasonably conclude that the proposed development would constitute sustainable development

and the development of the proposed house would greatly undermine the proper planning and development of this village core.

### 7.3. Impact on Residential Amenity

7.3.1 I first note once again that the appeal site forms part of a plot designated for residential use in the Cromane LAP. Therefore, the development of housing on this site and the land behind it is acceptable in principle. The outcome of any such residential development on this plot will have an impact on the outlook from the appellant's house. The protection of private views from the appellant's house is not a matter for consideration in this assessment or a matter of relevance to the Board.

7.3.2 Based on the details submitted by way of further information to the planning authority, it is noted that the proposed development would comprise a part single-storey, part two-storey house with a garage, of which the nearest section (which would be single-storey in height) would be sited some 35 metres west of the appellant's existing house. The two-storey central component of the new house would be in excess of 40 metres from the appellant's house. The finished floor level of the new house would be 0.25 metres higher than the finished floor level of the appellant's house. The height of the two-storey section of the proposed house to ridge level would be 6.918 metres, while the height to the ridge level of the appellant's house is shown to be 6.65 metres. The proposed house would be located to the west / south-west of the appellant's property on the opposite side of the local road. Based upon the separation distance, the orientation of the proposed house, the siting, and the height of the proposed development, it is apparent that the proposed house would not cause any significant impacts by way of overshadowing on the applicant's property and would not cause any significant loss of sunlight to that property. In addition, given the layout of the development and separation distance, there is no concern about any issue of overlooking resulting from the proposal.

7.3.3 In conclusion, I do not accept that there would be any significant adverse impact on the residential amenity of the neighbouring property arising from the proposed development.

#### 7.4. Traffic Impact

7.4.1 The proposed development would be sited within the speed limit control zone for the village of Cromane. The proposed vehicular entrance would be sited at the north-eastern corner of the site's frontage, the furthest point from the crossroads in the village centre. Adequate sightlines are attainable in both directions at this location and I have no particular concerns that the proposal would result in any traffic hazard arising from the vehicular movements that would be generated.

#### 7.5. Effluent Disposal

7.5.1 The Cromane Local Area Plan acknowledges the deficiency in waste water treatment infrastructure in the village and views this as a constraint on development. Objective 00-4 of this Plan is to ensure that new residential development shall be small-scale and low density with individual residential units served by individual treatment units/septic tanks, pending construction of a wastewater treatment plant in the village. Thus, the principle of allowing houses to be served by septic tanks appears acceptable in the immediate term, pending the development of a new public waste water plant for the village.

7.5.2 While I wholly concur with the aim of developing the residential component of the village of Cromane in the interest of orderly development for this rural area, the question of sustainability in the context of the provision of individual, private, on-site septic tanks and waste water treatment systems cannot be ignored. The build-up of private treatments systems in this confined location, based upon what has been developed in recent years on and in the vicinity of this crossroads, must pose a significant pollution threat by the intensification of such systems. If the planning authority is ultimately seeking to provide a waste water treatment system for the village, allowing the continuance of individual houses reliant on private systems will not facilitate any timely response to this village's needs in terms of investment in public waste water infrastructure. Indeed, continuing with such an approach is likely to stifle it.

7.5.3 Further to the above concerns, further issues arise relating to the conditions of this site. I note the applicant's submitted site characterisation assessment. However,

from my visual inspection of this site I note the prevailing ground conditions. The location for the proposed septic tank and percolation area is a low-lying section of the site and there is an open drain along the northern boundary of the site. This part of the site is extensively covered in soft rush and yellow flag iris, vegetation which clearly suggests that there are poor drainage conditions on this part of the site throughout the year. I would have concerns about the function of the soil and subsoils on this part of the site to adequately treat and dispose of effluent by using a conventional septic tank system. The potential for percolation being slow on this site is evident, which would potentially lead to ponding on this part of the site. It is my submission that adding to the extent of septic tanks and effluent treatment systems at this location is not sustainable and poses a risk of pollution in this instance.

## **8.0 Recommendation**

8.1. I recommend that permission is refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. The site of the proposed development constitutes a significant part of the largest land parcel zoned 'Residential (proposed)' in the current Cromane Local Area Plan. Objectives of the Plan include encouraging the development of a compact and sustainable village structure by ensuring that new development is contiguous with existing development and makes effective use of backland and infill sites (Objective 00-1), ensuring that the high quality natural setting of the village is maintained and protected from inappropriate development (Objective 00-2), and ensuring that new residential development is small-scale and low density (Objective 00-4). Having regard to the large site area associated with the proposed development relative to the size of the residentially zoned land parcel, the design, form, layout and excessive scale of this development in the village centre context, and to the lack of a coherent and integrated approach to the development of the zoned lands on and in the vicinity of the site and lack of linkages thereto, it is considered that the proposed development constitutes premature development pending the provision of a plan guiding new residential



development on the zoned land at this location, that would result in piecemeal and haphazard development and would undermine the orderly and sustainable development of the site and adjoining residentially zoned lands contrary to the Local Area Plan objectives. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is a specific objective of the current Cromane Local Area Plan to preserve the village's architectural heritage and to encourage development to be designed in a manner that is in keeping with the scale and character of the existing village, with new developments required to respect local design features (Objective AH-1). Furthermore, it is a specific objective to encourage the appropriate reuse and sensitive conservation of the early 19th century cottage at the prominent central location at the main crossroads in the village (Objective AH-3). Having regard to the location of the 19<sup>th</sup> century cottage abutting the eastern site boundary, the siting of the proposed dwelling immediately behind this structure of architectural heritage value, and the form, height, bulk, scale and character of the proposed house and associated garage, it is considered that the proposed development would create a visually prominent and incongruous feature which would detract significantly from the architectural and cultural heritage integrity of the existing cottage and its setting and would undermine the opportunity for gaining appropriate reuse and sensitive conservation of this early 19th century structure. The proposed development would, therefore, contravene the objectives of the Cromane Local Area Plan, would negatively impact on the special character and appearance of the building of heritage value, and would, thus, be contrary to the proper planning and sustainable development of the area.
3. Having regard to a plan being in place for the provision of wastewater infrastructure for the village, as set out in the Cromane Local Area Plan, it is considered that the proposed development would be premature by reference to the existing deficiency in the provision of public piped sewerage facilities serving the area and the period within which the constraint involved may reasonably be expected to cease. In addition, having regard to the poor soil characteristics of the site and the natural drainage characteristics of the land, it

is considered that the proposed development would constitute an unacceptable risk of pollution and would be prejudicial to public health. Furthermore, it is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive density of development served by private effluent treatment systems in the area and would, therefore, be prejudicial to public health.

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Kevin Moore  
Senior Planning Inspector

6<sup>th</sup> June 2019