



An
Bord
Pleanála

Inspector's Report

ABP-304107-19

Development

Retention and completion of driveway, permission for new vehicular entrance and all associated works including culverting a stream.

Location

Ballady, Belgooly, Co. Cork.

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

18/6571

Applicant(s)

Aiden Kearney.

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party v. Grant

Appellant(s)

John and Helen Scannell

Observer(s)

Ian Scannell

Date of Site Inspection

13th June 2019

Inspector

Elaine Power

1.0 Site Location and Description

- 1.1. The site is located in Ballady, approx.1.5km north of the village of Belgooly and approx. 5km north east of Kinsale. Ballady is a rural area characterised by agricultural lands. There are a number of one-off houses located within the vicinity of the site.
- 1.2. The site has a stated area of approx. 0.76ha and is irregular in shape. There are mature trees and vegetation along the western boundary with the public road. The site currently accommodates a foxhound kennels complex and forms part of a larger landholding within the applicant's ownership.
- 1.3. Access to the site is provided via an existing driveway to the applicant's house. A partially completed driveway has been provided within the site.

2.0 Proposed Development

- 2.1. It is proposed to retain and complete the provision of a 4.5m wide internal driveway and to construct a new 12m wide splayed vehicular access onto the public road. The driveway would provide a link between the existing kennels and the public road.
- 2.2. To facilitate the driveway, it is proposed to culvert a stream which runs along the western section of the site. A hydrological report was included with the application.
- 2.3. ***Unsolicited Further Information lodged 12th November 2018***

Unsolicited further information included a planning history of the existing kennels on site and responded to third party submissions on file. It did not result in any alterations to the proposed development.

- 2.4. ***Further Information lodged 8th February 2019***

In response to the further information request the applicant submitted a revised site layout plan, indicating sightlines of at least 100m in both directions. A modified design to the culvert and details of additional measures to deal with surface water drainage were submitted. Full details of the existing waste water treatment system on site were also provided.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 6 no. conditions. The relevant conditions are noted below:

Conditions 1, 3 and 5 related to surface water drainage

Condition 2 related to culverting of the stream

Condition 4 related to the removal of vegetation within the sightline triangle.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The initial reports by both the Area Planner and Senior Executive Planner considered that further information was required regarding the following items: -

- Details of sightlines.
- Investigate the possibility of providing a bridge over the stream or alter the specification of the culvert.
- Additional measures to eliminate surface water run-off into the stream.
- Details of the wastewater treatment system shown on site.

The final reports from the Area Planner and the Senior Executive Planner considered that the response to further information adequately addressed the concerns raised and recommended that permission be granted.

3.2.2. *Other Technical Reports*

Engineering Report: The final report raised concerns regarding potential flooding of the local road network.

Environment Report: The final report raised no objection.

3.3. Prescribed Bodies

Inland Fisheries Ireland: The submission noted that the stream is a fish bearing water and the preferred option would be a span bridge, which would leave the natural bed of the river intact. Specifications for a culvert were also provided.

3.4. Third Party Observations

11 no. submission were received. The concerns raised are similar to those in the third-party appeal submission.

4.0 Planning History

Reg. Ref. 06/12325: Permission was granted in 2007 for a house.

EF: 16/179: Related to an enforcement case for kennels on site. The case was resolved under Section 157(4)(a)(i) of the Planning and Development Act, 2000 (as amended), as the use has been in place for over seven years.

5.0 Policy Context

5.1. Cork County Development Plan, 2014

The site is located in an area of unzoned land. Relevant Policy of the Plan includes: -

TM3-3: Road Safety and Traffic Management

ZU 2-3: Land Use Zoning of Other Lands.

ZU 2-5: Non-Conforming Uses

5.2. Natural Heritage Designations

There are no designated areas within the vicinity of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from John and Helen Scannell. The issues raised are summarised below.

- The application is invalid. The redline boundary includes an unauthorised development, foxhound kennels, which has not been included in the development description.
- The drawings submitted are inaccurate. The stream is located approx. 1.5m from the public road and not 10m, as shown. This could have implications for flooding.
- The removal of existing vegetation would have a negative impact on the visual amenities of the rural area.
- A boundary fence shown on the submitted drawings would appear to subdivide the site.
- The proposed new entrance would serve an unauthorised use. Additional movements from a separate site and new entrance would result in a traffic hazard.
- No Appropriate Assessment was undertaken.
- The unauthorised kennel use is having a negative impact on the residential amenities of the area in terms of noise.

6.2. Applicant Response

The applicant's response is summarised below: -

- Whether the entrance and driveway are permitted the kennel use will continue in its current use. This application will allow the kennel access to be separate to the applicant's home. The need for a new entrance and the separation of the curtilage are irrelevant to the proposed development.
- The planning history of the kennel use has been provided. The use has been in place for over seven years and there has been no intensification of use.

- The applicant was unaware that planning permission was required for the driveway.
- The proposed access would not give rise to any traffic safety issues or result in a proliferation of entrances.
- The proposed development would not impact on the visual amenities of the area. There are no restrictive landscape or amenity designations. Landscaping of the site is proposed as part of the development.
- A detailed hydrological assessment of the stream has been carried out and the proposed development would not result in localised flooding.
- The development would have no impact on the existing residential amenities.
- All drawings submitted are correct and to scale.

6.3. Planning Authority Response

None.

6.4. Observations

An observation to the appeal was received from Ian Scannell. The issues raised are summarised below.

- The drawings submitted are inaccurate. The sightlines as shown can not be achieved.
- The development would result in an obstruction to the river and would exacerbate localised flooding in the area.
- A natural spring is located on the applicant's site and serves 4 no. adjoining houses. The kennel and associated number of dogs has the potential to impact on the water quality of the local water supply.
- A number of photographs of the site have been included in the application.

6.5. Further Responses

None.

7.0 Assessment

7.1. The appeal refers to the revised proposal as submitted by way of further information on the 8th February 2019. The following assessment therefore focuses on that proposal with reference to the original proposal, where appropriate.

7.2. The main concern in the appeal relates to the principle of the development that relates to an established unauthorised development. A number of concerns have also been raised regarding the operation of the existing kennel facility on site. As this does not form part of the application it is not given consideration in the assessment. Concerns are also raised regarding water services, visual amenity, traffic and Appropriate Assessment. The main issues can be dealt with under the following headings:

- Principle of Development
- Water Services
- Visual Amenities
- Traffic
- Appropriate Assessment

7.3. *Principle of Development*

7.3.1. The site is located in a rural area and is unzoned. It forms part of a larger landholding which accommodates the applicants house. The subject site accommodates a foxhound kennel complex, which is located approx. 130m west of the applicant's house. Access to both the house and the kennels is currently provided from a single access point on the public road. This application is to retain and complete a partially constructed driveway and construct a new vehicular access onto the public road. The proposed works would allow for the house and the kennels to be fundamentally separated. While the subdivision of the site does not form part of this application, the drawings submitted show a new boundary fence between the house and the kennels.

7.3.2. The existing kennel use was subject to enforcement proceedings (EF: 16/179). The use is unauthorised. However, under section 157 (4)(a)(i) of the Planning and Development Act the case was closed and no action taken as evidence was provided which indicated that the use has been in operation for more than seven years.

7.3.3. While it is acknowledged that the kennel complex has been in operation for more than seven years, and therefore no enforcement proceedings can be undertaken, it remains an unauthorised development. In my opinion the existing use should be regularised, and its impact fully assessed, prior to permitting any further associated development.

7.4. **Water Services**

7.4.1. There is an unnamed stream located within the western section of the site. The stream flows to the River Stick approx. 600m south of the site. It is proposed to culvert a section of the stream to accommodate the proposed driveway. A submission received from Inlands Fisheries Ireland requested that the proposed culvert be altered to ensure it did not obstruct fish passage. A revised design was submitted by way of further information which adheres to the requirement of Inlands Fisheries Ireland.

7.4.2. Concerns have been raised in the appeal and observation that the proposed culvert would cause an obstruction to the flow of the river and would result in increased flooding of the local road. The Planning Authorities Area Engineer noted in his final report that the area is liable to flooding.

7.4.3. By reference to the OPW flood maps the site is not located within a flood zone. A Hydrological report and a copy of a Section 50 application to the OPW to culvert the stream were submitted with the application to the Planning Authority. The applicants hydrological report concluded that the proposed culvert meets the requirements for the OPW and would not adversely impact on flood levels upstream.

7.4.4. I have reviewed all the submitted relevant documentation and having regard to the minor nature of the development I would conclude that the proposed culvert design, as submitted by way of further information, would not obstruct access to the watercourse and, therefore, adequately satisfies the flood risk concern.

7.4.5. With regard to surface water management revised proposals were submitted by way of further information to prevent run off into the stream and onto the public road. The proposals include stone trenches and an open grill channel crossing the driveway. It is noted that the Planning Authorities Area Engineer raise no objection to the surface water drainage proposals. Having regard to the information submitted I am satisfied that the proposed arrangements are sufficient for cater for surface water relating to the site.

7.5. **Visual Amenities**

7.5.1. Concerns were raised in the appeal regarding the impact of the development on the existing visual amenities of the area. There are no residential properties in the immediate vicinity of the proposed access.

7.5.2. It is proposed to remove approx. 12m of hedgerow along the western boundary of the site to accommodate the proposed vehicular access. The site is not located within a designated scenic or amenity area and the wider area is identified as '*Rolling Patchwork Farmland*' in the Development Plan. These landscapes are of medium landscape value and sensitivity and the landscapes are of county level importance. It is considered that they can accommodate development pressure but with limitations in the scale and magnitude. Having regard to the landscape classification and the limited size and scale of the development, it is my view that the proposed development would not have a significant negative impact on the existing visual amenities or rural character of the area.

7.6. **Traffic**

7.6.1. It is proposed to provide a new 12m wide splayed entrance onto the local road network. The proposed access is located approx. 20m south of the existing access to the applicant property. Sightlines of over 100m have been provided in both directions. Concerns have been raised in the appeal that the provision of a new vehicular access, approx. 20m south of an existing access on a busy road, would result in a traffic hazard.

7.6.2. It is unclear from the information submitted if the kennels generate a significant number of vehicular movements onto the local road network. Notwithstanding this, it is my view that having regard to the nature of the local road, the limited number of

existing accesses and the available sightlines, the proposed development would not result in a traffic hazard or any road safety issue.

7.7. *Appropriate Assessment*

Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, 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

I recommend that permission be refused for the reasons stated in the attached schedule.

9.0 Reasons and Considerations

1. The proposed development would extend and facilitate an existing foxhound kennel complex, which is an unauthorised development. It is considered, therefore, that a grant of permission, in this instance, would be contrary to the proper planning and sustainable development of the area.

Elaine Power
Planning Inspector

17th July 2019