



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304263-19

#### Development

Change of use from former Railway Cottage to Café/Restaurant to include single-storey extension to the rear of existing cottage with all associated site works and drainage connections, landscaping, delivery area and bicycle stands

#### Location

Scartore, Ballinroad, Dungarvan  
County Waterford

#### Planning Authority

Waterford City and County Council

#### Planning Authority Reg. Ref.

18497

#### Applicant(s)

Michael Ryan

#### Type of Application

Permission

#### Planning Authority Decision

Refuse Permission

#### Type of Appeal

First Party

#### Appellant(s)

Michael Ryan

#### Observer(s)

Geoffrey and Therese Dipple  
Sheila Morrissey

Anne Organ

**Date of Site Inspection**

27th September, 2019

**Inspector**

Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located in Ballinroad, c.700 metres to the south east of Ballinroad village centre and 4km to the north of Dungarvan. The site fronts onto the Waterford Greenway immediately to the south of the site. There are existing public car parks located on the southern side of the greenway route and to the north west of the site are located three houses that are all accessed via the same cul de sac road as the appeal site.
- 1.2. The site is roughly triangular in shape and has a stated area of 0.06 ha. At the southern end of the site is an existing two storey dwelling which was formerly built and used in connection with the operation of the railway which is now the Waterford Greenway. The building is unoccupied, in a poor state of repair and has a stated floor area of 49 sq. metres.
- 1.3. The area to the rear (north) of the building tapers down significantly into effectively a point at the northern end. This area is very overgrown and the north eastern boundary of the site with the adjoining residential property is characterised by mature planting. The adjoining residential property to the north east is located at a lower level than the appeal site.
- 1.4. The existing western boundary of the site comprises a low stone wall that runs from the recessed entrance to the dwelling to the north of the site south as far as approximately the north west corner of the existing building on the appeal site. There is a grass verge located between the wall and the roadway and it would appear from the submitted drawings that a significant part of this verge is included within the red line boundary of the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the conversion of the existing building to use as a café. The existing building is proposed to be significantly extended to the rear with the addition of a single storey extension. To the front, a wrap around covered porch area is proposed that would accommodate outside seating. The proposed layout as initially submitted to the Planning Authority for consideration has 55 no.

seats indicated internally and a further outside seating area with 28 no. seats indicated.

- 2.2. Toilets and a bin storage area are indicated at the rear (northern) end of the development and further to the north a play area is indicated. The northern and western sides of the proposed building are indicated as being adjoined by what appears to be a narrow hard surface areas / paths which are at a level approximately 1 metre higher than the open space / play area indicated to the north. Stepped access to this open space / play area is indicated.
- 2.3. The development is proposed to be connected to the public water supply and foul drainage network. The foul drainage connection point is located to the north west of the site and at a significant (in excess of 100 metres) remove from the appeal site. The existing connection to the public water supply is proposed to be retained.
- 2.4. A small area of cycle parking capable of accommodating approximately 8 no. bicycles is indicated at the south east corner of the building.

## **3.0 Planning Authority Decision**

### **3.1. Request for Further Information**

Prior to the issuing of a Notification of Decision, the planning authority requested further information on the following:

- Invite to reconsider the design given the potential for loss of residential amenity due to the differences in level and proximity to residential properties.
- Details of ventilation and extraction for kitchens and proposals for litter management,
- Clarification from the council that the existing car parking area can be used to accommodate patron and staff parking demand.
- Amendments to layout to prevent intrusion onto existing greenway and congestion of thoroughfares.
- Proposals for the access from the greenway,
- Proposals on the site to cater for bicycles.

- Proposals for a reduction in the scale of the development.
- Submission of evidence in the form of a pre connection enquiry that a connection is feasible.
- Clarification regarding the intended use of the toilets and if they would be available to non patrons. Proposals for opening hours.
- Proposals for the play area and mitigation of the impact on adjoining residential properties.
- Clarification regarding a number of apparent errors in the submitted drawings.

The following is a summary of the main alterations and information provided in response to the request for further information:

- Proposals for the reinforcement of the existing hedgerow boundary to the adjoining residential property and screen windows in the east facing elevation. Revision to the layout to provide no access to the rear of the property. No changes to the scale of café accommodation proposed however the scale of toilet facilities is proposed to be reduced slightly.
- Locations of extraction equipment and proposed refuse bins indicated on plans. Litter bins indicated around the site.
- Revisions to the site layout that avoids impact on the public road.
- That a footpath to the west side of the building has been provided for access to the toilets that will be available for users of the greenway and which does not impact on the alignment of the existing roadway.
- That staff will be advised to use a set down area for turning movements and deliveries to the site. This area is to be provided at the far northern end of the site and a staff car parking area is proposed immediately to the south of this. Access to these areas is facilitated by the removal of the existing stone boundary wall in these locations.
- The external seating area has been reduced to 15 to be provided under the canopy and provision made for the on site accommodation of 35 bicycles in racks. The previously proposed 26 no. seats in the area to the front (south) of the building are now omitted and the space partially

- The internal layout has been amended to provide for 45 no. seats rather than 55 no.
- Stated that the toilets proposed are in excess of what is required for the café and is to be a facility for the greenway. Access to these toilets is available without entering the tea rooms.
- A letter from Irish Water which states that subject to a valid pre connection agreement being put in place, that the proposed connection can be facilitated. Letter notes that the proposed connection point is located c.150 metres from the appeal site and that the connection should not pass through third party lands.
- Opening hours of 07.00 to 18.00 in winter and 07.00 to 22.00 in summer proposed.
- The play area has been removed from the application. The staff parking area, set down area and circulation area at the rear of the toilets substantially account for what was the play area.

### 3.2. Decision

Permission was refused by the Planning Authority for three reasons that can be summarised as follows:

1. That the site is located in an area that is zoned green belt and the proposed use is a not permitted use on lands so zoned. The proposed development would therefore materially contravene the zoning objective for the site.
2. That development of the scale proposed would constitute over development of a constrained site with resulting negative impact on the residential amenities of the area by reason of noise and nuisance and would impact on the public road and greenway by reason of traffic congestion.
3. That the applicant has failed to demonstrate that it is feasible to connect to the public sewer and no confirmation regarding this arrangement has been provided from Irish Water.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

The initial report of the Planning Officer notes the fact that the proposed development is contrary to the zoning objective for the site and that a material contravention of the development plan would be required. Concerns regarding over development are also expressed. Noted that the scale of the proposed use is such that it would be a destination in its own right and concerns regarding car parking are expressed. Encroachment of the development onto the public road is noted and the impact of the development on the amenity of adjoining residential properties noted. Initial report recommends further information on a significant number of issues. Report subsequent to the receipt of further information response recommends refusal of permission consistent with the notification of decision which issued.

#### **3.3.2. Other Technical Reports**

None on file.

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

Three observations were received by the Planning Authority. The following is a summary of the main issues raised in these submissions:

- Contrary to zoning,
- Impact on residential amenity of adjoining properties,
- That the village of Ballinroad provides sufficient services to the greenway,
- That the parking area and cul de sac is already congested.
- Problems in connecting to the sewer network.

## 4.0 Planning History

There is no record on file of any recent planning history relating to the appeal site.

The information on file indicates that the proposal has been the subject of pre application consultations with the local authority, Refs. 2018/287 and 2017/463.

ABP Ref. PL93.302243 – Application for leave to appeal a decision of the Planning Authority relating to a relocated site entrance on a residential property located to the north of the appeal site at the northern end of the cul de sac. Leave to appeal refused.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant development plan is the *Waterford County Development Plan, 2011* (as varied). Under the provisions of this plan the site is zoned Green Belt with a stated objective to provide for a green belt area as a clear physical demarcation with the adjoining urban area, to provide for the development of agriculture and to protect and improve rural amenity and to restrict residential development to provision of permanent dwellings for existing landowners and their immediate family members.

As per Table 10.11 Land Use Matrix, both Café / Tea Shop and Restaurant are identified as uses that are not permitted on lands zoned Objective GB.

Section 4.11 of the plan relates to the green belt and states that there will be restrictions on development to maintain a clear break between urban and rural areas and to support the sustainable development of settlements. Policies SS9 and SS10 relate to residential development within green belt areas.

**Policy ECD5** states that it is policy '*to support where appropriate rural diversification and micro enterprises*'.

**Policy ECD21** relates to sustainable tourism and recreation and states that it is policy to facilitate the expansion of tourist activities in appropriate locations.....



Section 6.13 relates to walking and cycling and ***Policies ECD22, ECD 23*** and ***Objective ECD5*** are among those that generally support walking related developments.

## 5.2. **Natural Heritage Designations**

The site is not located within any European sites. The following are located in relatively close proximity to the site:

- Dungarvan Harbour SPA, c.1.1km from the site
- Glendine Wood SAC, c.2km from the site.

## 6.0 **The Appeal**

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

The following is a summary of the main issues raised in the first party grounds of appeal:

- That pre application consultations with the planning authority were entered into.
- That the fact that further information were requested from the applicant should not mean that permission is subsequently refused with the planning authority having a fundamental objection to the proposed development. Such an approach is contrary to the provisions of the development management guidelines for planning authorities.
- While the proposal required to be the subject of a material contravention it was not brought before the elected members as such despite the request for further information.
- That the development has been designed to provide a service to the greenway and as a means to broaden the tourism offer and provide additional economic and employment benefits.

- To address some of the issues raised in the decision and the report of the Planning Officer a revised set of planning drawings have been prepared and submitted with the application. The alterations proposed are minor and relate to identification of extraction equipment, provision of a turning bay within the site, relocation of steps to the rear to provide for a dedicated bin storage area, increased separation between the development and the greenway and the northern boundary fence to be raised to 2.0 metres and extended along the full length of the boundary.
- While it is noted that reason for refusal 1 makes reference to material contravention of the development plan, it is considered that there are conflicting objectives in the development plan such that permission could be granted by the Board and the requirements of s.37(2)(b) of the Act met.
- Specifically, there are a number of policies that are supportive of tourism and the form of development proposed, specifically Policy ECD18 and ECD19. The policies of the plan are clear that it is the intention of the council to use walking and cycling tourism for the economic benefit of the county and particularly rural areas.
- Reference is made in the development plan to the walking strategy Step by Step – A Walking Strategy for County Waterford. This strategy notes the presence of railway cottages and their potential for the provision of accommodation or food services. Policies ECD22 and ECD 23 are of note in this regard as they promote Waterford as a walking location and the promotion of routes.
- Objective ECD5 of the plan seeks to facilitate the sustainable development / enhancement of walking and cycling trails that do not cause impacts on the landscape or environment.
- Submitted that the zoning objective inhibits the ability of the above tourism related policies and objectives to be achieved. The result is that the economic benefits of the greenway cannot be maximised.

- Noted that since the adoption of the current plan in 2011, the pattern of development in the vicinity of the site have changed significantly with additional residential development and the provision of parking areas to serve the greenway.
- That the pattern of development in the vicinity of the site have significantly changed since the adoption of the development plan and specifically the greenway and car park have been permitted.
- That the development would broaden the quality of the tourism offering in this area.
- That the proposed development is not contrary to the stated objective of the green belt zoning. The greenway runs through the rural area / green belt and the structure which is proposed to house the café use is existing. The development will not impact on the clear physical demarcation to the adjoining urban area.
- That the extent of site coverage and the plot ratio of the development are such that the proposal cannot reasonably be considered to constitute over development of the site. No site coverage or plot ratio standards are specified in the plan.
- That the development will not impact on residential amenities. A significant number of amendments to the development have been undertaken (detailed in appeal) and design considerations given to protecting the amenity of adjacent residential properties. These include reduction in scale and number of seats, access to toilets, works to site boundaries and provision of bin store, provision of cycle facilities and parking.
- That the development will not impact negatively on the public road network or the greenway. The development is designed to cater for users of the greenway and not to be a destination in its own right. It will not contribute to an increase in traffic generation in the area as greenway users will either be passing on the route or will be using the adjacent public car parks to start / finish their route.

- That traffic will use the car parks and will not enter the cul de sac. A turning area has in any event been provided on the site.
- Connection of the proposed development to the foul sewer is feasible and is the subject of a report attached with the appeal prepared by McCrae Consulting Engineers.

## 6.2. **Planning Authority Response**

The following is a summary of the main issues raised in the response of the planning authority to the grounds of appeal:

- That the decision to refuse permission is considered appropriate and in accordance with the provisions of the development plan.
- Refusal of permission was on the basis that the applicant failed to satisfy the planning authority that there would not be a negative impact on residential amenity and on the greenway itself.
- Not considered that the appeal raises any issues which would alter the decision of the planning authority to refuse permission.

## 6.3. **Observations**

The following is a summary of the main issues raised in the submissions received from observers to the appeal:

- That the proposal is over development of a small site and a very small existing cottage.
- That the development would detract from the greenway and there is no demand for such a use as evidenced by no vendors being present in the dedicated area in the adjacent car park.
- The proposed opening hours show no consideration for the adjacent residents.
- The development would impact on residential amenity due to noise, traffic, odours and loss of privacy.

- That the proposal contravenes the zoning objective for the site.
- That no formal legal agreement for the sewer wayleave was submitted with the application and the submission of Irish Water clearly states that the connection must not traverse third party lands. This requires clarification.
- That there is only consent from one landowner for a wayleave but there are three additional landowners who do not give their consent for a connection to be made.
- There are no provisions to mitigate the impact on residential amenity. A 2 metre high screen wall is required, provision for bicycle and car parking, restrictions on the hours of opening and measures to confine the development to within the site and not encroaching on the greenway and the public road.
- The additional traffic generated will result in a traffic hazard. The site will be an attraction in itself.
- That the location of the turning area will impact on visibility at the adjoining residential access.
- There are still inaccuracies in the submitted plans.
- That the area of the formerly proposed playground would still have potential to impact on residential amenity.
- That the site is not an isolated rural area and there are amenities in the village of Ballinroad which is 300 metres from the site. There are vacant units in the village that could be used.
- That the greenway is not a new development contrary to the claims of the first party. The car parking area was developed on lands owned by the council.
- The cases cited by the applicant regarding the changed pattern of development are not relevant and should not be considered by the Board as the basis for the granting of permission.
- That the plot ratio and site coverage figures cited by the applicant are not correct.
- That the auto track analysis cited in the appeal is not on file.

- That the provision of public toilets will lead people to begin / end their trip at this location resulting in increased traffic.
- The volume of people attracted to stop at this location will lead to noise and congestion.

## 7.0 **Assessment**

7.1. The following issues are considered of relevance to the assessment:

- Principle of Development and Procedural Issues
- Design and Impact on Amenity
- Traffic Safety and Access
- Drainage and Site Servicing
- Appropriate Assessment

### 7.2. **Principle of Development and Procedural Issues**

7.2.1. A number of ***procedural issues*** relating to the processing of the case by the Planning Authority have been raised by the first party, including the fact that further information was requested prior to the refusal of permission, that pre application consultations were undertaken and that the proposal was not presented to the elected members as a material contravention of the plan. From the submission of the first party and the report of the planning officer, it would appear that prior to submission of the application the planning authority informed the applicant that the proposal was considered to be contrary to the zoning objective of the site, however it was decided to proceed with the application. It is not clear from the information on file whether any discussion was entered into regarding the invoking of the material contravention procedure, however any such decision would be an issue for the Planning Authority. With regard to the issue raised regarding the further information request and subsequent refusal of permission being contrary to the provisions of the development management guidelines for planning authorities, I note the comments of the first party in this regard and would agree that the circumstances of this case

where permission was refused for reasons that included material contravention of the zoning objective after a request for further information issued would not appear to be best practice or consistent with the advice contained in the Development Management Guidelines for Planning Authorities. Notwithstanding this, the role of the Board is to determine the appeal and the fact that the Planning Authority issued a request for further information prior to the issuing of a decision is not material to the consideration of the appeal.

7.2.2. With regard to the ***principle of the proposed development***, under the provisions of the *Waterford County Development Plan, 2011* the site is zoned Green Belt with a stated objective *'to provide for a green belt area as a clear physical demarcation with the adjoining urban area, to provide for the development of agriculture and to protect and improve rural amenity and to restrict residential development to provision of permanent dwellings for existing landowners and their immediate family members'* . As per Table 10.11 Land Use Matrix, both *'Café / Tea Shop'* and *'Restaurant'* are identified as uses that are not permitted on lands zoned Green Belt, and Reason for Refusal No.1 issued by the Planning Authority states that the proposal would materially contravene the zoning objective for the site.

7.2.3. Against this, the form of development proposed would clearly serve a beneficial purpose for users of the adjoining greenway, providing a location for rest and provision of refreshments that is approximately 4km from the Dungarvan end of the Waterford – Dungarvan Greenway and at a location that is well served as a termini for users of the route given the availability of parking. By virtue of the fact that the development plan dates from 2011, and therefore pre dates the development of the greenway and its opening in early 2017, there are no specific policies or objectives relating to its promotion or the provision of specific facilities along the route of the greenway. There are however a number of policies and objectives contained in the plan which support the promotion of tourism and recreation, particularly walking and cycling. These include Policy ECD5 which states that it is policy *'to support where appropriate rural diversification and micro enterprises'* and Policies ECD22, ECD 23 and Objective ECD5 which generally support walking related developments. The form of development proposed which would support an existing recreational walking and cycling amenity and rural business would, in my opinion, be consistent with these policies. I would also note the fact that there are currently a limited number of

alternative such facilities along the c.46km route of the greenway with the main alternative location being Kilmacthomas approximately half way along the route. Observers to the appeal have highlighted the fact that the Ballinroad village is located in close proximity to the site and can serve a service function for the greenway. This however ignores the separation distance of c.750 metres to the village centre and the requirement to cross the busy R.675 as well as the proximity of the area to the Dungarvan end of the route meaning that greenway users passing this location are unlikely to deviate far from the route. In principle therefore, it is my opinion that the form of development proposed is a beneficial use that would meet a demand generated by users of the route and is consistent with the general provisions of the development plan to promote tourism, especially walking and cycling, and rural enterprise.

7.2.4. Observers to the appeal and the Planning Authority have both highlighted the ***scale of the proposed development*** and in particular the number of seats proposed to be provided and the scale of the toilet facilities proposed. The scale of development proposed is submitted to be such that it is in excess of the need to serve the greenway and would become a destination in its own right. I note that as part of the response to further information submitted by the first party to the planning Authority that the scale of development is proposed to be reduced to 15 external seats under the canopy, and 45 rather than 55 internal seats. Notwithstanding these alterations, I would share the concerns of the Planning Authority and the third parties regarding the scale of the proposed development and particularly it's potential to become a destination in its own right. The information submitted with the application indicates that opening hours of 07.00 to 18.00 in winter and 07.00 to 22.00 in summer proposed. It is likely that during periods of high usage of the greenway the volume of passing trade will be sufficient to keep the facility busy, however there are likely to be significant periods both during the week and out of season when demand in the form of passing trade is likely to be limited. In the absence of any form of detailed assessment of likely demand by the first party, I consider that the scale of the proposed development is such that there would be a significant risk of users being attracted from existing centres.



7.2.5. With specific regard to the wording of the reason for refusal No.1 issued by the Planning Authority and the reference to **material contravention** of the development plan, the provisions of section 37(2) of the Act are applicable in this case. The first party appeal raises a number of points relating to the criteria as set out in s.37(2), and contends that there are conflicting objectives in the development plan such that permission could be granted by the Board and the requirements of s.37(2)(b) of the Act met. Specific reference is made to Policies ECD18 and ECD19 which are supportive of tourism and the form of development proposed and it is contended that it is the intention of the council to use walking and cycling tourism for the economic benefit of the county and particularly rural areas. Similarly, the first party references Policies ECD22 and ECD 23 which promote Waterford as a walking location and Objective ECD5 of the plan which seeks to facilitate the sustainable development / enhancement of walking and cycling trails that do not cause impacts on the landscape or environment. It is submitted that the zoning objective inhibits the ability of the above tourism related policies and objectives to be achieved, with the result that the economic benefits of the greenway cannot be maximised.

7.2.6. I note the policies and objectives highlighted by the first party, however in my opinion the wording of these policies, while supportive of tourism and walking in the county, are of a general nature. There are no specific policies or objectives in the plan relating to the promotion of ancillary facilities for the Waterford Greenway and no specific local objective that provides for development of the form proposed in the location proposed. The date of the development plan (2011) predates the greenway project and it would appear likely that this explains why there are no specific policies or objectives relating to the greenway contained in the plan or why more consideration of development ancillary to the greenway was not provided for in the plan. Against this, while the structure on site is existing and the proposed use would not clearly be contrary to the stated objective of the green belt which is to provide for a clear demarcation to the adjoining urban area, provide for agriculture and protect rural amenity, the land use zoning objective is explicit that the form of development proposed (café / restaurant use) is not permitted on lands zoned Green Belt. On balance therefore I do not consider that it can be held that there are conflicting objectives in the plan in so far as the proposed development is concerned.

7.2.7. With regard to the other criteria set out in s.37(2)(b), while the greenway itself could be considered to be of strategic or national importance, the development which is the subject of appeal does not meet this criteria. I do not know of any provisions of s.28 guidance or regional planning guidance which would mean that permission should be granted and no such provisions are identified by the first party in their appeal. Finally, the first party contend that the pattern of development in the vicinity of the site has changed significantly since the making of the development plan with the greenway and associated car park having been permitted and such that permission should be granted having regard to this changed pattern of development as per s.37(2)(b)(iv) of the Act. I would generally agree with the first party that, in principle, the proposed development would broaden the quality of the tourism offering in this area and that the pattern of development in the vicinity has changed significantly since the adoption of the current development plan with the opening of the greenway and ancillary car parking facilities in close proximity to the appeal site. Subject to the Board being satisfied that other relevant considerations relating to the proposal are acceptable, I do not therefore consider that the Board is bound by the provisions of s.37(2)(b) of the Act in making its decision and that, in principle, it is open to the Board to grant permission.

7.2.8. In conclusion there are, in my opinion, reasons why in principle the proposed use would be consistent with the enhancement of the amenity of the existing greenway given that it would provide a service to users of the greenway and one which is currently lacking over the route. As set out above however the scale of the development and potential impact on existing settlements is a concern and I would share the concerns expressed by the Planning Authority that the scale of development is such that it could become a destination in its own right. I note the changed circumstances since the adoption of the current *Waterford County Development Plan in 2011* which predated the development of the greenway project and which likely explains the lack of specific policies and objectives relating to the greenway in the plan. I also note the significantly changed local context and pattern of development since the making of the development plan with the opening of the greenway route and the development of the public car parking adjacent to the appeal site. This change in context is, in my opinion such that subject to the Board being

satisfied with regards to other aspects of the proposed development, the Board is not precluded by s.37(2) of the Act from granting permission in this case.

### **7.3. Design and Impact on Amenity**

- 7.3.1. At the outset of consideration of design and the impact on amenity, I note the fact that a revised set of planning drawings have been prepared and submitted with the appeal. The alterations are relatively minor and relate to identification of extraction equipment, provision of a turning bay within the site, relocation of steps to the rear to provide for a dedicated bin storage area, an increase in the separation between the development and the greenway and the northern boundary fence to be raised to 2.0 metres and extended along the full length of the boundary. These revised proposals have been taken into account in the following assessment.
- 7.3.2. The design proposed incorporates the renovation of the existing building and the addition of a roofed terrace area to the south wrapping around three sides of the building. To the rear a large single storey extension is proposed with a stepped floorplan to take the building away from the north east site boundary. The separation distance to the north east boundary where the new rear extension is proposed is very tight being less than 0.5 metre at the closest point. The general layout is therefore in my opinion such that it would be difficult to provide any significant form of planting in this location. In terms of overlooking and loss of amenity for the adjoining residential property to the north east, I note the fact that the appeal site is located at a higher level than the adjoining property and that windows in the east facing elevation of the rear extension would face towards the adjoining property at a distance of approximately 2.0 metres. The variation in level is difficult to quantify from the application documentation but from observations on site is in excess of 1.0 metres. While the adjoining house is separated from the proposed development by c.25 metres, and the area of garden immediately adjoining the appeal site is not the main amenity space serving the dwelling, the proposed development has some potential to impact negatively on the residential amenity of this property by disturbance and overlooking, particularly at the south east corner of the site where a lower level (1.2 metres) of fencing is proposed and cycle parking would be provided on site.

- 7.3.3. The degree to which the proposed development would encroach onto the existing roadway is identified as an issue in the assessment undertaken by the Planning Authority and I would agree that this is problematic in the design proposed. The drawings indicate the far south west corner of the development extending right out to the red line boundary and a red line boundary along the western side of the site that extends out to take in all of the existing roadside verge. The proposed development would result in the removal of all of the existing stone boundary wall along the western side of the site with this area being incorporated into the roadway and used for set down area and access to a staff parking area. This layout would, in my opinion have the effect of significantly altering the visual character and quality of the area as well as facilitating additional traffic parking and movements in the vicinity of the site. In addition, the proposed layout would result in the western side of the building being very open and visually prominent from the public road with a poor quality of demarcation between the site and the public area. The layout also provides for toilet, bin storage and kitchen access to be in the western elevation and effectively directly onto, and visible from, the public road.
- 7.3.4. While I note that the entirety of this existing verge area is indicated as being located within the red line boundary of the site, the proposed layout would in my opinion have a negative impact on the visual amenity and quality of the area. In particular, I consider that the removal of the western site boundary and the opening up of the site to the road would significantly alter the character of this rural area and have a negative impact on visual and residential amenities for existing residents of houses accessed from the cul de sac.
- 7.3.5. The proximity of the western site boundary to the existing roadway was also raised by the Planning Authority during the course of the assessment of the application with concerns expressed regarding encroachment onto the public road and onto the greenway itself. The submitted drawings are not very clear with regard to assisting an assessment of this issue and as referenced above it would appear that the south west corner of the proposed extension to the building on site would be very close to the red line boundary and to the road. In addition, the layout of the western elevation of the building and the site is such as to be very open to the road with a poor level of demarcation between the site and the road. The layout proposed would in my

opinion encourage patrons of the development to traverse and congregate on the road.

- 7.3.6. The proximity of the development to the eastern site boundary and the proposed works on the western side removing the existing roadside verge and opening the up the site to the road combine in my opinion to indicate an excessive scale of development on what is a restricted site.

#### **7.4. Traffic Safety and Access**

- 7.4.1. One of the main concerns raised by the observers to the appeal relates to the traffic which would be generated by the proposed development and the increase in vehicles accessing the cul de sac. Observers state that currently at peak periods there are a significant number of vehicles which access the cul de sac, using existing residential entrances to turn and that this would be exacerbated when the development is in place.
- 7.4.2. The issue of parking to serve the development was raised by the Planning Authority as part of the request for further information issued and the first party obtained the consent of the council to the use of the existing parking areas on the southern side of the greenway to serve the development. This is considered to be acceptable and I do not consider it appropriate or necessary that on site parking would be provided which would attract additional traffic onto the cul de sac.
- 7.4.3. To address the issue of delivery access, staff parking and to facilitate turning of vehicles the revised design submitted by the first party in response to the further information request issued by the Planning Authority proposes the removal of further sections of the existing stone wall that currently bounds the cul de sac and forms the western boundary of the site. In my opinion, the overall effect of these changes is to attract additional traffic to access the cul de sac when what is required is for as much traffic as possible to be kept within the car parking areas on the southern side of the greenway. The use of the staff parking area, and turning movements attracted by the provision of the turning bay would in my opinion lead to a significant increase in the level of traffic accessing the cul de sac with consequent negative impact on the residential amenity of residents of the houses to the north in this rural area.

7.4.4. With regard to pedestrian access and safety, I note the fact that the plans submitted to the Board indicate an access from the southern boundary of the site directly onto the greenway. The current access to the site is from the south west corner of the site via the cul de sac and the provision of a pedestrian access directly onto the greenway route would lead to potential conflicts with users of the greenway.

## **7.5. Drainage and Site Servicing**

7.5.1. The development is proposed to be connected to the public water and foul drainage systems. In the case of water supply, the existing connection located at the south west corner of the site is proposed to be retained and the submission on file from Irish Water states that subject to a valid connection agreement being put in place that the proposed connection can be facilitated.

7.5.2. In the case of foul drainage, as noted in the submission on file from Irish Water dated 8<sup>th</sup> January, 2019, the proposed development is located c.150 metres from the point of connection to the existing foul sewer and in a location to the north west of the appeal site. Reason for Refusal No.3 included by the Planning Authority states that the applicant has failed to demonstrate that it is technically feasible to connect to the public sewer and failed to provide confirmation from Irish Water that a connection can be provided, such that the development would be contrary to public health and to the proper planning and sustainable development of the area. This refusal reason is refuted by the first party appellant who contends that connection of the proposed development to the foul sewer is feasible and has submitted a report by McCrae Consulting Engineers to support this statement.

7.5.3. I note that the submission on file from Irish Water (dated 8<sup>th</sup> January, 2019) notes the fact that the connection from the site to the public sewer located on the R675 requires the crossing of third party lands, that this is not generally acceptable to Irish Water and implies that a connection agreement would not be issued on such a basis. The position with the connection route is that it will have to pass through third party lands to access the connection point on the northern side of the R675, with the only alternative being a route to the south and along the public road to the roundabout on the R675 a distance of c.0.5km. A connection route north along the cul de sac and across a residential property at the northern end of the lane is indicated in the

drawings submitted with the appeal (Drg. No.002; P4). While the consent of the owner of the residential property at the northern end of the cul de sac would appear to be available for a foul drainage connection to cross their lands, no formal legal agreement regarding this has been provided and it would be contrary to the most recent advice from Irish Water. I also note the fact that the ownership of the cul de sac is such that it would appear that the other residents of the cul de sac have rights over the section of road between the appeal site and the third party who is agreeable to facilitating a connection. It would therefore appear that even if Irish water were to revise their decision regarding the crossing of third party lands, that the necessary consents / agreements with all third parties could not be obtained. In view of these issues it is considered that the basis of reason for refusal No.3 as issued by the Planning Authority remains valid.

- 7.5.4. I note that the application documentation (Drg.001 P1) that there is an existing septic tank on site which it is proposed to de commission prior to any development being undertaken. I also note from the revised layout submitted that the soakaway is proposed to be located under the area indicated for staff parking (see Drg. No.002 Rev. P4) which would not appear to be in accordance with best practice. .

## 7.6. **Appropriate Assessment**

- 7.6.1. Given that the development is proposed to be connected to the public water supply and drainage networks, and having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations:

## 9.0 Reasons and Considerations

1. Having regard to the location of the site in a rural area and on lands zoned green belt, to the scale of development proposed on a restricted site and proximity to adjoining residential properties and to the relationship of the development with the adjoining road and greenway it is considered that the proposed development would have a negative impact on residential amenity by virtue of noise, disturbance and visual intrusion in this rural area. The proposed development would therefore seriously injure the residential amenities of property in the vicinity, would materially contravene the Green Belt zoning of the area and would be contrary to the proper planning and sustainable development of the area.
2. The applicant has failed to demonstrate that it is feasible to provide a connection to the public foul sewer in a manner that is acceptable to Irish Water and that the necessary third party agreements to any connection are available. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

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Stephen Kay  
Planning Inspector

8th October, 2019