



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305243-19

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<b>Development</b>	Construction of 30 no. dwellings including all ancillary site services, landscaping and access roads
<b>Location</b>	Milleenoola, Bantry, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/673
<b>Applicant(s)</b>	Samuel Flynn
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party V. Grant
<b>Appellant(s)</b>	Sean Hayde
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> October 2019
<b>Inspector</b>	Elaine Power

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Milliencoolla, approx. 1km east of Bantry town centre. This area is generally characterised by low density residential estates comprising detached and semi-detached houses and agricultural lands.
- 1.2. The site is irregular in shape and has a stated area of 1.6 ha. It is currently a greenfield site and is generally flat with a low-lying section in the centre. There are 3 no. open drains located within the site.
- 1.3. The site is bound to the north by Slip Road (L-4711), to the south by agricultural lands, the east by a local road and agricultural lands and to the west by Slip Heights, a residential estate. The existing site boundaries include mature trees and vegetation and a stone wall.
- 1.4. There is a recorded monument located in the north west section of the site, Fulacht Fiadha (CO118-102).
- 1.5. Access to the site is from the L-4711. Part of the site falls within a 50km/h zone and part falls within an 80km/h zone. There is an additional access from the local road to the east of the site.

## 2.0 Proposed Development

- 2.1. It is proposed to construct 30 no. dwellings, comprising 6 no. two-bed dwellings, 22 no. three-bed dwellings and 2 no. four-bed dwellings. There are 6 no house types. House type A are 4-bed, semi-detached houses with a gross floor area of 115sqm. House types B, C and D are 3-bed semi-detached houses with a gross floor area ranging between 105sqm and 108sqm. House types E and F are 2-bed, terrace houses with a gross floor area varying between 95sqm and 100sqm. All house types are two-storeys and range in height from 8m to 8.5m with gable ended pitched roofs. The houses are traditional style. The pallet of external finishes include painted render with sections of slate grey cladding and blue / black roof slates. Each house has a driveway, with off street car parking for 2 no. cars, and rear private open space.

- 2.2. The houses are sited around a central green area, which accommodates a new district play area. The site would be bound by a new 2.4m high wall / fence
- 2.3. A new access to the site is proposed via the L4711 (Slip Road) and a new round-a-bout is indicated on the public road. The internal access road is approx. 6m in width with 2m wide footpath on either side. The development has been set back to provide a new 2m wide public footpath along the northern boundary of the site. The footpath would link with the existing public footpath, which leads to Bantry town centre. A 3m green strip is proposed adjacent to the public footpath, located to the rear of the proposed dwellings.
- 2.4. A connection would be made to the public sewer and public water main.
- 2.5. A Planning Report was submitted with the application.

2.6. ***Unsolicited further information lodged 28<sup>th</sup> November 2018***

A schedule of accommodation was provided.

2.7. ***Further Information lodged 27<sup>th</sup> March 2019***

A revised scheme was submitted to provide a greater set back between the proposed development and the recorded monument, Fulacht Fia (Ref. CO118-102) in the north east section of the site. This resulted in 2 no. houses being re-orientated. The house types were also altered to provide a greater range of houses sizes and types. This resulted in the provision of 6 no. two-bed dwellings, 20 no. three-bed dwellings and 4 no. four-bed dwellings.

The vehicular access to the site was also relocated approx. 50m west, to within the existing 50 km/h zone and the round-a-bout was omitted.

A report detailing the condition of the existing culvert, a lighting report, a tree survey and a construction and demolition waste management report were submitted with the response.

Revised public notices were advertised on the 5<sup>th</sup> April 2019.

2.8. ***Clarification of Further Information lodged 25<sup>th</sup> June 2019***

Additional drainage details, landscaping proposals and a comprehensive lighting scheme were submitted.

Revised public notices were advertised on the 28<sup>th</sup> June 2019.

### 2.9. ***Unsolicited Further Information lodged 17th July 2019***

Details of a single flood event on the site were submitted.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

Grant permission subject to 37 no. conditions. The relevant conditions are noted below: -

Condition 1: Clarified that permission was granted for the revised scheme.

Condition 2: related to compliance with Part V.

Condition 3, 5 and 6: related to landscaping

Condition 4: archaeology condition

Condition 9: related to details of the play space.

Condition 18: required details of retaining walls to be agreed with the Planning Authority.

Condition 36: special contribution of €48,000

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

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

The initial reports by the Area Planner and the Senior Executive Planner recommended that further information be sought regarding: -

- Pedestrian linkages and traffic calming measures within the site
- Concerns regarding the proposed housing mix and an overprovision of 3-bed semi-detached houses

- Details of an existing culvert and surface water attenuation
- The impact on the recorded monument
- Public lighting
- An arboriculture's report
- Details of the play area
- A Waste Management Plan

Following the receipt of further information and clarification of further information the final reports by the Area Planner and the Senior Executive Planner considered that all items had been fully addressed and recommend that permission be granted subject to 37 no. conditions.

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

Engineering final report: No objection subject to conditions

Archaeologist final report: No objection subject to conditions

Estates final report: No objection subject to conditions

Environment report: No objection

Public Lighting final report: recommends further information

### 3.3. **Prescribed Bodies**

**Transport Infrastructure Ireland** raised concerns that the proposed development is at variance with national policy and would set an undesirable precedent which would adversely affect the operation and safety of a national road. It is recommended that a Traffic and Transport Assessment be submitted to fully assess the impact of the development.

**Irish Water:** No objection

**Inland Fisheries Ireland:** No objection

### 3.4. Third Party Observations

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

## 4.0 Planning History

**Reg. Ref. 17/239:** permission was granted in 2017 for the construction of 30 no. dwellings. A third-party appeal was withdrawn (ABP-300705-18).

## 5.0 Policy Context

### 5.1. West Cork Municipal District Local Area Plan 2017

Bantry is identified as the second largest town in the West Cork Municipal area. The subject site is located within the settlement boundary for Bantry. It is an aim to promote significant expansion of the town in order to support commercial, retail and tourism / leisure facilities within the town. There is limited capacity within the water and waste water systems which serve Bantry.

**Policy BT-GO-01:** Plan for development to enable Bantry to achieve its target population of 5,484.

**Policy BT-IN-01:** All proposals for development within the areas identified as being at risk of flooding will need to comply with Objectives WS 6-1 and WS 6-2 as detailed in Chapter 11, Volume 1 of the Cork County Development Plan, 2014, as appropriate, and the provisions of the Ministerial Guidelines – ‘The Planning System and Flood Risk Management’. In particular, a site-specific flood risk assessment will be required as described in WS 6-2.

The subject site is located on lands zoned for residential development with the associated land use objective BT-R-05 with: -

*‘Medium B Density Residential Development including serviced sites. Provision of pedestrian / cycling linkages to adjoining residential sites’.*

## 5.2. **Cork County Development Plan, 2014**

The County Development Plan sets an overall population target of 5,484 for Bantry which represents a projected Population increase of 2,136 persons (or a 64% population increase).

Section 3.4.20 notes that Medium Density 'B' allows for a maximum density of 25 units per hectare with a lower limit of 12 units per hectare. The relevant policies of the Cork County Development Plan are set out below.

- HOU 3-1: Sustainable Residential Communities
- HOU 3-2: Urban Design
- HOU 3-3: Housing Mix
- HOU 4-1: Housing Density on Zoned Lands
- SC5-2: Quality Provision of Public Open Space
- SC 5-8: Private Open Space Provision
- TM 2-1: Walking
- TM 2-2: Cycling
- TM 3-1: National Road Network
- GI 3-1: Green Infrastructure – New Developments
- WS 6-1: Flood Risks – Overall Approach
- ZU 2-1: Development and Land Use Zoning
- ZU 3-2: Appropriate Uses in Residential Areas

Cork County Councils Recreation and Amenity Policy Document is also relevant.

## 5.3. ***National Planning Framework (2018)***

The relevant policies of the National Planning Framework which relate to creating high quality urban places and increasing residential densities in appropriate locations are set out below.

- Policy Objective 4
- Policy Objective 6

- Policy Objective 11
- Policy Objective 33
- Policy Objective 35

#### 5.4. **National Guidance**

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Urban Design Manual, A Best Practice (DOEHLG, 2009)
- Design Manual for Urban Roads and Streets DMURS (2013)

#### 5.5. **Natural Heritage Designations**

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

#### 5.6. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

### 6.0 **The Appeal**

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

A third-party appeal was submitted by Sean Hayde. The issues raised are summarised below:

- Details of the planning history and land ownership were provided.
- The sites zoning objective requires pedestrian and cycle links to adjoining sites. The proposed layout does not allow for an permeability through the site.



- A Traffic and Transport Assessment should have been submitted with the application.
- A site-specific flood risk assessment is required
- The proposed development would negatively impact on a national monument, Fulacht Fiadha (CO118-102).
- The Appropriate Assessment Screening was inadequate.

## 6.2. Applicant Response

The Applicants response is summarised below: -

- The proposed development is in accordance with the residential zoning objective for the site which is located within an existing settlement boundary. The scheme is also fully compliant with all relevant policies and objectives.
- Having regard to the size and topography of the site the layout has been designed, as best as possible, to provide for potential future pedestrian / cycle links to the east and west of the site. A footpath has also been provided along the northern boundary of the site to link with the town centre.
- The entrance to the site from the L-4711 is within the 50km/p speed zone. Therefore, there is no requirement for a TTA. It is also noted that TII referred to a National Road, however, the site exits onto a local road. Having regard to the limited size of the site and the potential number of trips generated by the site there is no requirement for a TTA. The proposed development and the potential generation of traffic has been fully assessed by the Planning Authority.
- Flood risk has been fully assessed and the designed into the development which ensures that there would be no negative impacts downstream or on any adjoining sites.
- Every effort has been made to safeguard the recorded monument (CO118-102). Due to the site's proximity to the public road it is not possible to provide a 10m buffer zone. However, a minimum 10m buffer has been provided from the boundary walls of the proposed houses. These separation distances were acceptable to the planning authority's archaeologist. It is considered that the

correct balance has been achieved between protecting the recorded monument and developing an appropriately zoned site.

- The site is located outside of a designated Natura 2000 site. The site is located in a serviced urban area and the proposed development would be connect to the existing water and wastewater systems. There is no surface water sewer available for the site. However, a site-specific surface water management strategy was developed in conjunction with the planning authorities Area Engineer. The site is located to the east of Bantry town centre and does not have any direct hydrological links to any designated sites.
- Condition 36: The applicant considers that the Planning Authority have not provided a sufficient justification to warrant the costs sought by the special contribution and that the applicant has been charged twice by normal development contributions and the special contribution. The applicant, therefore, requested that the Board omit the special contribution.

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

The Planning Authority's response dated 10<sup>th</sup> October 2019 stated that there was no further comments. The Planning Authority's response dated 23<sup>rd</sup> October is summarised below: -

- Due to the nature and scale of the proposed development there is no requirement for a Traffic Impact Assessment.
- The special contribution has been applied to 2 no. additional development sites in the vicinity of the appeal site. The contribution is required for road work improvements, connectivity and footpaths. The contribution is specific and is not double charging. A special contribution report has been included which provides details of the improvement works and the associated costs.

### **6.4. Further Responses**

None

## 7.0 **Assessment**

7.1. As indicated the appeal refers to a residential scheme of 30 no. houses as lodged with the Planning Authority, on the 25<sup>th</sup> June 2019, by way of clarification of further information. The following assessment, therefore, focuses on that proposal with reference to the original scheme, where appropriate.

7.2. The main issues in this appeal relate to traffic and permeability, flood risk, archaeology and Appropriate Assessment requirements. The applicant has also requested that the Board omit condition no. 36 which related to a special development contribution. The design approach of the scheme is also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Design Approach
- Traffic
- Flood Risk
- Archaeology
- Development Contribution
- Appropriate Assessment

### 7.3. ***Design Approach***

7.3.1. It is noted that permission was granted in 2017, Reg. Ref.17/239 for the construction of 30 no. dwellings. The previously approved layout comprised a cul-de-sac of 30 no. houses with a large area of open space provided in the centre of the development. The cul-de-sac fronted onto the public road.

7.3.2. The revised scheme submitted by way of clarification of further information resulted in a development of 30 no. houses, centred around a green area. The internal access road is approx. 6m in width with 2m wide footpaths on either side. The road layout is designed around 4 no. cul-de-sacs, with turning area provided at the end of each route. Having regard to the limited number of units served from the

development it is my view that a continuous vehicular route would be more appropriate without the requirement for turning areas.

7.3.3. The subject site is zoned BT-R-05 which requires the provision of pedestrian / cycling linkages to adjoining residential sites. Concerns were raised in the appeal regarding the lack of connectivity to adjoining sites. In response the applicant has noted that a new 2m wide public footpath is proposed along the northern boundary of the site with the local road. A revised drawing was also submitted indicating potential future links to undeveloped sites to the east and west of the appeal site. Having regard to the zoning objective for the site, it is my view that, sufficient consideration was not given to connectivity and permeability both within and through the site. In particular, it is noted that the proposed footpaths within the site do not continue towards the sites boundary rather they terminate outside the houses. It is also my view that the houses could be re-oriented to provide passive overlooking of these future pedestrian / cycle routes.

7.3.4. I also have serious concerns regarding the proposed layout, which provides no direct frontage onto the public road. It is noted that that the Board may consider this to be a new issue. A 2m wide footpath with an additional 3m wide grass verge is provided along the northern boundary of the site, adjacent to the public road and to the rear of Houses 1-9. The design and layout of the dwellings relative to the street network is contrary to national guidance contained within Design Manual with notes that as many homes as possible should have direct access from the street. It is also my view that the proposed layout is out of character with the existing residential schemes located along Slip Road, as they all have direct frontage onto the public road. It is also noted that, to allow for an open drain to be retained on the site, an additional 3m wide strip is proposed to the rear of Houses 12-21. In my view, this layout does not allow for natural surveillance and would result in issues of safety and security and potential for anti-social behaviour.

7.3.5. Policy HOU 3-3 of the Development Plan requires a mix of house types and sizes. The proposed scheme comprises 6 no. two-bed terrace dwellings, 20 no. three-bed and 4 no. four-bed semi-detached dwellings. The house designs are all similar, with a contemporary approach to the traditional. However, having regard to the limited

number of houses proposed it is considered that the scheme is compliant with policy HOU 3-3.

7.3.6. For sites zoned 'Medium Density B'. Policy HOU 4-1 of the Development Plan sets out a maximum housing density of 25 units per ha with a lower limited of 12 units per ha is recommended. The site has a density of approx. 19 units per hectare. It is an objective of the National Planning Framework to increase residential densities in appropriate locations to avoid the trend towards predominantly low-density commuter-driven developments. Having regard to the proximity of the site to the centre of Bantry I would have concerns regarding the proposed density and consider that a higher density could be achieved on the site. However, having regard to the provision of a significant portion of public open space on the site and the existing pattern of low-density housing in the immediate vicinity of the site, it is my view that the proposed density and layout is acceptable in this instance.

7.3.7. While the appeal site is zoned for residential development and is serviced and capable of supporting housing, I consider the overall layout would result in a poor environment with poor connectivity and permeability and a lack of safety and security, contrary to national guidance as set out in the document Sustainable Residential Development in Urban Areas and contrary to the proper planning and sustainable development of the area. It is also considered that the layout of the proposed scheme would be contrary to Policy HOU- 3-2 of the Cork County Development Plan which requires new urban development to be of a high design quality which supports the achievement of successful urban spaces and sustainable communities.

#### 7.4. **Traffic**

7.4.1. The proposed development comprises 30 no. houses with 2 no. car parking spaces proposed per house. Concerns were raised by TII, to Cork County Council, and by the appellant that a Traffic and Transport Assessment was required. The concerns raised related to the impact of the development on a National Road and the potential for an undesirable precedent. However, as the access is onto the local road network and having regard to the limited number of vehicular trips potentially generated by

the proposed development, it is my view that, it would not have a negative impact on the operation or safety of a national road.

- 7.4.2. Vehicular access is proposed from a new 12m wide splayed entrance off the L-4711, within the 50km/p speed limited. A minimum of 90m sightlines are available in both directions. Having regard to the limited scale, and the design and layout of the scheme, it is my view that, the proposed development would not result in a traffic hazard or generate any road safety issues.

## 7.5. ***Flood Risk***

- 7.5.1. It is proposed that the development would be connect to the public water and wastewater systems. The Planning Authority's Area Engineer or Irish Water raised no objection to the proposed connection.
- 7.5.2. The appellant has stated that the site is within a flood zone and that a site-specific floor risk assessment is required. The West Cork Municipal District Local Area Plan maps indicated that a portion of the northern section of the site is partially located in Flood Zone A. With a smaller section in flood zone B. In response the applicant has stated that the LAP maps were indicative only and have been superseded by the OPW maps. The OPW flood maps indicated that the site is not located within a flood zone. The applicant has stated that there were two flooding events in the early 2000's within the appeal site, and that both related to blocked drains. The Planning Authority's Estates report confirms that any flooding on the site was due to heavy rainfall and that the local drainage system has since been upgraded.
- 7.5.3. Drawing no. R00011901-04-190619 submitted by clarification of further information on the 25<sup>th</sup> June 2019 indicates that there are 3 no. open drains on the site. There is an open drain running parallel to the northern boundary of the site, adjacent to the public road. The second drain runs along the south west boundary of the site. This drain connects to a concrete drainage pipe which is located within an adjoining site to the west, Slip Heights. A third open drain runs through the centre of the site. It runs from the southern boundary of the site and connects with the concrete drainage pipe located within an adjoining site to the west, Slip Heights. It is proposed that the open drain which runs along the south western boundary of the site would be

retained. A 3m wide strip is proposed between the south west boundary of the site and the rear boundary wall of Houses 12 – 21. The 2 no. remaining drains would be replaced with 600mm surface water pipes / culverts and would connect with the existing drainage system on the adjoining site, Slip Heights. An attenuation tank is proposed under the central area of open space.

- 7.5.4. The drainage report (Culvert Condition report) submitted by way of clarification of further information indicated that surface water run-off would be managed and contained within the appeal site and would not impact on adjoining sites. It is noted that the Planning Authority raised no concerns regarding flood risk. Having regard to the information submitted, I am satisfied that the proposed arrangements are sufficient to cater for surface water relating to the site.

#### 7.6. ***Archaeology***

- 7.6.1. There is a Recorded Monument, Fulacht Fia material (CO118-102) located in the north west section of the site. Concerns were raised in the appeal that the proposed development would negatively impact on recorded monument. The scheme was revised by way of further information to provide a separation distance of 10m between the boundary of the recorded monument and the boundary wall of the nearest house. Due to the proximity of the recorded monument to the northern boundary of the site and the public road, a maximum separation distance of approx. 3.8m between the proposed new footpath and the recorded monument is provided. The applicant has engaged an archaeologist to ensure the recorded monument is preserved in situ. It is noted that the Planning Authority's archaeologist had no objection to the proposed development. In my view, having regard to the separation distances, and subject to monitoring of any ground works by a suitably qualified archaeologist, the proposed development would not have a negative impact on the recorded monument.

#### 7.7. ***Development Contribution***

- 7.7.1. As part of the response to the appeal the applicant requested that Condition no. 36 be omitted. This condition related to the payment of a special contribution of €48,000 towards the provision of necessary transport infrastructure. The applicant has stated that no justification for the special contribution has been provided and that costs

incurred under the special contribution are neither specific nor exceptional to the proposed development. The applicant considers that Condition 37 which relates to normal development contributions is sufficient to cover any costs associated with the development.

7.7.2. In response the Planning Authority stated that the special contribution relates to the upgrade of the road network serving the development and is not covered under the normal development contribution. A detailed report including a breakdown of the improvement works and associated costs was submitted by the Planning Authority.

7.7.3. Having regard to the information submitted, it is my view, that a special development contribution is justified and that if permission was being contemplated that a similar condition should be attached.

#### 7.8. ***Appropriate Assessment***

7.8.1. Concerns were raised in the appeal that the screening for appropriate assessment was not carried out adequately by the Planning Authority.

7.8.2. Having regard to the nature and small scale of the proposed development within a serviced urban area 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**

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

### 9.0 **Reasons and Considerations**

1. Having regard to the site layout and design which lacks frontage onto the public road (L-4711) and natural surveillance / passive supervision, it is considered that the proposed development would constitute an inappropriate housing scheme which would not contribute positively to the public realm. The proposed development would be contrary to the "Sustainable Residential



Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in May 2009. The proposed development would, therefore, seriously injure the amenities of the area and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the specific zoning objective of the site BT-R-05 to provide pedestrian and cycle linkages to adjoining sites it is considered that the site layout, which lacks any connectivity and permeability with adjoining sites would contravene objective BR-R-05 of the West Cork Municipal District Local Area Plan, 2017 and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Elaine Power  
Planning Inspector

15<sup>th</sup> November 2019