



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305923-19

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|-------------------------------------|---|
| <b>Development</b>                  | Construct 9 no. dwellings and 2 no. detached garages. Widening of the public road and new public footpath all associated development works, |
| <b>Location</b>                     | Curra, Riverstick, Co. Cork,  |
| <b>Planning Authority</b>           | Cork County Council   |
| <b>Planning Authority Reg. Ref.</b> | 19/4810   |
| <b>Applicant(s)</b>                 | MV Kelleher Developments  |
| <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>                 | (1) Neil and Mary Nash<br>(2) Dara Corcoran   |
| <b>Observer(s)</b>                  | None  |
| <b>Date of Site Inspection</b>      | 7 <sup>th</sup> February 2020   |
| <b>Inspector</b>                    | Elaine Power  |

## 1.0 Site Location and Description

- 1.1. The village of Riverstick is located approx. 14km south of Cork City and 8km north of Kinsale. Riverstick accommodates approx. 250no. residential units. Its centre is characterised by recently constructed townhouses and apartments with mixed uses at ground floor level.
- 1.2. The appeal site has a stated area of 0.3797 ha and forms part of a larger landholding with the applicant's ownership. The site is generally rectangular in shape. The site slopes away from the public road, generally in an east-west direction. It also follows the topography of the public road and generally slopes in a north – south direction. It is bound to the north and east by the public road and existing residential developments and to the south and west by undeveloped lands within the ownership of the applicants. There is an existing detached dwelling and associated agricultural buildings located on the applicant's lands to the west of the appeal site.
- 1.3. There is an existing unsurfaced vehicular access to the site from the northern boundary.

## 2.0 Proposed Development

- 2.1. It is proposed to construct a row of 9 no. 2-storeys 4-bedroom detached dwellings fronting onto the public road (L-7340). All houses have a gross floor area of 174sqm. The houses have a traditional design with a render and brick finish. They have gable ended pitched roofs with a maximum height of approx. 8.3m. Each house has a driveway, with off-street car parking for 2 no. cars, which is accessed directly from the public road. Private open space is provided to the rear of each house. Houses 1 and 9 also have a detached garage. A retaining wall, approx. 4m in height located along the rear (south western) boundary of the site.
- 2.2. The works also include widening the existing public road to 5.5m and providing a 2m wide public footpath adjacent to the proposed development.
- 2.3. ***Unsolicited Further Information lodged 3<sup>rd</sup> May 2019***

A proposed site layout and a proposed typical house section and garage details were submitted by way of further information.

#### 2.4. ***Further Information lodged 24th June 2019***

The response to further information included an indicative layout for a residential scheme on a larger site within the applicant's ownership. Additional drainage and lighting details were also submitted. The response did not result in any alterations to the proposed development.

#### 2.5. ***Clarification of Further Information lodged 27th September 2019***

In response to a request for clarification of further information 2 no. houses have been omitted from the south east portion of the site (house no. 8 and 9) and the space, which is approx. 33m in width, is reserved as a potential future vehicular access to the overall lands within the applicant's ownership. The space is shown as a green area on the revised drawings.

Additional details were also provided regarding drainage proposals, construction works to the public road and public lighting.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Permission was granted subject to 16 no. conditions. The relevant conditions are noted below:

**Condition 1** clarified that permission was granted for the scheme submitted by way of clarification on the 27<sup>th</sup> September 2019.

**Condition 6** required the details of the retaining wall to be agreed with the Planning Authority.

**Condition 13** required the phasing of the development to be agreed with the planning authority.

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

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

The initial reports by the Area Planner and the Senior Executive Planner raised concerns regarding the proposed development and recommended that further information be sought regarding the following:

- Address concerns that the development would obstruct access to adjoining lands within the applicant's ownership and designated for residential development in the Local Area Plan.
- Additional drainage and lighting details
- Details of the proposed boundary treatments

Following receipt of further information and clarification of further information the Area Planner considered that all concerns had been fully addressed and recommended that permission be granted subject to conditions.

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

**Public Lighting** final report: No objection subject to conditions

**Estates** final report: No objection subject to conditions

**Area Engineer** final report: No objection subject to conditions

### 3.3. **Prescribed Bodies**

**Irish Water:** No objection

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

3 no. third-party submissions were received. The concerns raised are similar to those in the appeals.

## 4.0 **Planning History**

### **Subject Site**

None

## ***Surrounding Sites***

**ABP 303384-19, Reg. Ref. 18/5274:** Permission was refused in 2019 for the demolition of a farm building and the construction of 59 no. houses on a site located approx. 800m east of the appeal site. The reasons for refusal related to (1) the design and layout of the scheme was out of character with the area; and (2) the development was premature development pending the provision of a footpath connecting the site to the village.

## **5.0 Policy Context**

### **5.1. Development Plan**

### **5.2. Bandon Kinsale Municipal District Local Area Plan 2017**

The subject site is identified as being within the development boundary for Riverstick. Riverstick is identified as a Key Village in the LAP. It is an aim to encourage its consolidation, preserve the landscape setting and promote development. There is a new Waste Water Treatment Plant in Riverstick with spare capacity to accommodate the targeted population growth. Water is supplied from Inishannon Water Supply and there are proposals for a new water storage reservoir to ensure there is sufficient capacity within the system.

**DB-01:** Within the development boundary encourage the development of up to 150 additional dwelling units during the plan period.

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

The subject site is located within the settlement boundary of Riverstick. Policy ZU 2-2 – Development Boundaries states *‘for any settlement, it is a general objective to locate new development within the development boundary, identified in the relevant Local Area Plan that defines the extent to which the settlement may grow during the lifetime of the plan’*. 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
- GI 3-1: Green Infrastructure – New Developments
- 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.

#### 5.4. ***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

#### 5.5. ***National Guidance***

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).

Urban Design Manual, A Best Practice (DOEHLG, 2009)

#### 5.6. ***Natural Heritage Designations***

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

## 5.7. 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

2 no. third party appeals were received from (1) Neil and Mary Nash and (2) Dara Corcoran. The issues raised are summarised below: -

- A sod and stone embankment along the public road has been deteriorating since infrastructural works in 2016. The proposed widening of the public road and the provision of a 2m wide footpath would accelerate subsidence, which is causing the road to collapse into adjoining properties. No consideration has been given to the structural stability of the road. The development would endanger public safety by reason of unstable road infrastructure and traffic hazard.
- The excavation of the road to provide connections to services would further reduce the stability of the road.
- The proposed development represents ribbon development and is not appropriate. It would be out of character with the village of Riverstick and surrounding area. It is contrary to objective HOU 3-2 of the Development Plan and the provisions of the Bandon Kinsale LAP.
- The development is located in close proximity to adjoining properties and would have a negative impact on the existing amenities, in particular on overlooking of existing properties.
- The development would cause noise, dust and general disturbance to local residents and would require the public road to be closed.

- Concerns were also raised the development was not fully addressed by Cork County Council.

## 6.2. Applicant Response

The applicant's response is summarised below: -

- The applicants live within 110m of the proposed development and the family have resided in Riverstick and are an active part of the community for generations. It is not intended to carry out a development that would have a negative impact on the village.
- The applicants have fully considered the condition of the public road. It is in the applicant's interest to ensure the structural stability of the road, as it provides access to the development site. The proposed development would improve traffic safety as it would allow for 2-way traffic movements. The design of the road has been agreed with the Local Authority and they are aware of the current condition of the road.
- The works previously carried out on the public road were undertaken by Irish Water. The applicant has no responsibility for the current stability of the road. The proposed works would maintain or improve the condition of the existing road.
- The development would be connected to existing public infrastructure. The services are located on the applicant's side of the road. The connections would not have a negative impact on the existing public road.
- The access and design of the lands to the rear of the development have, which are located within the development boundary for Riverstick, have been discussed with the Planning Authority. In response to clarification of further information 2 no. houses have been omitted to ensure future access to the lands to the rear. The design and layout of the lands to the rear of the site would be subject to a future planning application.
- The development does not represent ribbon development as the site is located with the village of Riverstick. It does not contravene Policy objective HOU 3-2 (Urban Design). The houses are a high-quality design, in keeping with the



scale, size and style of adjoining developments. The layout allows for passive surveillance of the public road. It is an expansion of the village centre.

- The appellants houses area located between approx. 13.5m and approx. 20m from the public road.
- All works would be carried out in accordance with best practice to ensure disturbance is limited to adjoining neighbours. Any road closures would require a licence from the local authority.

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

None

## 7.0 **Assessment**

As indicated, the appeal refers to the revised scheme as submitted by way of clarification of further information on the 27<sup>th</sup> September 2019. The main issues in this appeal relate to the design approach, residential amenity and construction practices. Connectivity and Appropriate Assessment requirements are 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
- Density
- Connectivity
- Residential Amenity
- Construction Practices
- Appropriate Assessment

### 7.1. ***Design Approach***

- 7.1.1. It is proposed to construct a row of 7 no. 2-storeys 4-bedroom detached dwellings on a greenfield site. Each house has direct access onto the public road (L-7340). Concerns were raised in the appeals that the proposed development would be contrary to the provisions of the Bandon Kinsale LAP and of the Cork County

Development Plan, 2014. Concerns were also raised that the development represents ribbon development and would be out of character with the area.

- 7.1.2. The subject site is located within the settlement boundary of Riverstick. The LAP allows for the provision of up to 150 no. additional dwelling units during the lifetime of the plan. Table 4.1 of the Bandon Kinsale Municipal District LAP recommends a scale of 25 units per individual residential scheme in Riverstick. It is an aim to encourage the consolidation of the village. It is, therefore, my view that the proposed residential development is consistent with the provisions of the LAP.
- 7.1.3. As the site is located within the settlement boundary of Riverstick, it is not considered to be ribbon development. However, I would have some concerns regarding the proposed design approach. Objective HOU 3-2: Urban Design of the Development Plan aims to ensure that all new urban development be of a high design quality.
- 7.1.4. The appeal site forms part of a larger site within the applicant's ownership. As part of the request for further information the applicant submitted a indicative layout for a residential scheme on the larger site. This layout indicated that vehicular access to the site would be from the L-3206 located to the north of the appeal site. Due to the topography of the site, the proposed potential future access was not considered acceptable to the Planning Authority. By way of clarification of further information, a potential future vehicular route to the site was provided from the L-7340, along the front boundary of the appeal site, which resulted in 2 no. houses being omitted from the original scheme. A revised indicative layout for the overall lands was not submitted. The proposed potential future vehicular route is approx. 33m in width and is located in the south eastern portion of the site. Having regard to the overall lands within the applicant's ownership, which are within the settlement boundary for Riverstick, it is my opinion that a design and layout which incorporates a larger portion of land would allow for a more creative design approach, away from the linear layout currently proposed.
- 7.1.5. It is acknowledged that the appeal site is located with the settlement boundary and is serviced and capable of supporting housing. However, in my view the proposed linear layout does not take account of the overall serviced lands within the applicants ownership and would result in a poor environment, which does not reflect or enhance

the existing character of the village or the surrounding rural area. It is also considered that the proposed layout could potentially obstruct the provision of an integrated residential development on serviced lands to the rear of the site. It is, therefore, recommended that permission be refused as the proposed development would be contrary to Policy HOU- 3-2 of the Cork County Development Plan, 2014 which requires new urban development to be of a high design quality which supports the achievement of successful urban spaces and sustainable communities.

## 7.2. **Density**

- 7.2.1. The proposed scheme has a density of 18 units per hectare. Policy HOU 4-1 of the Development Plan allows for a density of 12 - 35 dwellings per hectare in smaller towns outside the Metropolitan area. Section 6.12 of Sustainable Residential Development in Urban Areas, 2009 recommends a density of 20-35 dwellings per hectare at the edge of centre of a small town or village. It is also noted that 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.

The site of the proposed development is on serviceable lands, within the development boundary of Riverstick, which is designated as a Key Village. It is noted that the density falls within the lower range permitted within the Development Plan standards. However, the proposed density is below the minimum standard as set out in the Sustainable Residential Development in Urban Areas, 2019. It is my view, that the proposed development would not be of a sufficiently high density to provide for an acceptable efficiency in serviceable land usage, and that the low density proposed would be contrary to the National Planning Framework which aims to achieve compact growth through effective density and consolidation rather than more sprawl of urban development. It is recommended that permission be refused on this basis.

## 7.3. **Connectivity**

- 7.3.1. The site is located approx. 230m west of the village centre. Access to the site is via the L-3206, which is suburban in character. The public road is approx. 7m in width and includes footpaths on both sides of the road and public lighting. The footpath along the L-3206 terminates approx. 65m east of the appeal site. Access is also available to

the site from the L-7340, which is rural in character with a significant number of detached dwellings. This road is approx. 4m in width with no footpath or public lighting.

- 7.3.2. It is proposed to provide a 2m wide public footpath along the north eastern (front) boundary of the site with the L-7340. The proposed footpath is approx. 140m in length. The site is bound to the north east by the public road and there is a private residential dwelling on the opposite side of the road at the junction of the L-7340 and the L 3206. To the south east the site is bound by a private residential dwelling. Therefore, there is no immediate potential for additional pedestrian linkages with the village. Having regard to the limited width of the existing public road and with properties located on either side, it is not possible to provide a footpath by realigning the carriageway.
- 7.3.3. I would have some concerns regard the lack of connectivity to the village. However, it is acknowledged that the site is located within the Riverstick development boundary and that the northern boundary of the site is located approx. 65m from an existing footpath link. Having regard to the limited number of houses proposed, it is my view, that the lack of a continuous footpath link to the village centre is acceptable in this instance.

#### 7.4. ***Residential Amenity***

- 7.4.1. The proposed 7no. houses front onto the public road (L-7340). The front boundary of the proposed development is located approx. 10m from the rear boundary of existing houses in Hillcrest Court, on the opposite side of the road. There is a minimum distance of 28m between the proposed and existing houses. The rear boundary of Hillcrest Court is screened by mature trees and vegetation. The site slopes away from the public road and the rear of the site is elevated approx. 3m from the public road. It is proposed to level the site and provide a 4m high retaining wall to the rear of the site. Therefore, the proposed development would be level with the public road. It is noted that the site and the public road also slope in a north south direction. The layout follows the topography, which results in House 1 being elevated approx. 6m above House 7.
- 7.4.2. Concerns have been raised that due to the elevational differences and the overall height of the proposed dwellings that the proposed scheme would have a negative impact on the existing residential amenities, in terms of overlooking.

7.4.3. The houses have a traditional design with a render and brick finish. They have gable ended pitched roofs with a maximum height of approx. 8.3m. The level differences between the existing and proposed houses and the overall height of the proposed dwellings are acknowledged, however, having regard to the separation distances, it is my opinion that the proposed development would not result in any negative impacts on the existing residential amenities in terms of overlooking, overshadowing or overbearing impact.

#### 7.5. **Construction Practices**

7.5.1. Concerns were raised by the appellants that the construction phase of the proposed development would cause undue noise, dust and general disturbance to local residents and would require the public road to be closed.

7.5.2. In response the applicant has stated that all works would be carried out in accordance with best practice to ensure disturbance is limited to adjoining neighbours. Any road closures would require a licence from the local authority.

7.5.3. In my opinion, having regard to the limited duration of the construction phase and as all works would be carried out within the boundaries of the site, in accordance with the relevant building regulations and best practices guidelines, it would not have a significant negative impact on the existing amenities of the adjoining properties.

7.5.4. The appellants also raised concerns regarding the negative impact the proposed development would have on the structural stability of the public road (L-7340), which bounds the site to the south. The appellants note that an existing sod and stone embankment along the public road has been deteriorating since infrastructural works were carried out by Irish Water in 2016. The proposed widening of the public road and the provision of a 2m wide footpath would accelerate subsidence, which is causing the road to collapse into adjoining properties.

7.5.5. In response to the appeal, the applicant has stated that it is in their interest to ensure the structural stability of the road, as it provides access to the development site. It is also stated that the applicant has no responsibility for the current stability of the road. The design of the road has been agreed with the Local Authority, who are aware of

the current condition of the road, and that the proposed works would maintain or improve the condition of the existing road.

7.5.6. In my opinion, the structural adequacy of the public road are not matters that would be appropriate for the Board to adjudicate on. It is considered that the onus is on the applicants and their contractors, to ensure that the construction phase is undertaken in a safe manner, in accordance with their obligations under separate codes, and I further note that the granting of permission would not relieve the applicants of their responsibilities in this regard. It should be noted that under section 34(13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a permission to carry out any development.

7.5.7. In conclusion, I consider that the disputes between the parties in relation to matters of structural integrity, construction methods and resultant health and safety risks that may or may not arise are ultimately matters that would be dealt with more appropriately outside of the planning appeal process.

#### 7.6. ***Appropriate Assessment***

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 reason stated in the attached schedule.

### 9.0 **Reasons and Considerations**

1. The proposed development, by reason of its design and layout would be out of character with the village of Riverstick and the surrounding area. In this regard it would be contrary to Policy HOU 3-2 of the Cork County Development Pan which requires new urban development to be of a high design quality which

supports the achievement of successful urban spaces and sustainable communities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to density, it is considered that the proposed development would be contrary to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), issued to planning authorities under Section 28 of the Planning and Development Act, and to the provisions of the National Planning Framework (2018). The site of the proposed development is on serviceable lands, within the development boundary of Riverstick, which is designated as a Key Village. It is considered that the proposed development would not be of a sufficiently high density to provide for an acceptable efficiency in serviceable land usage and would be contrary to the National Planning Framework which aims to achieve compact growth through effective density and consolidation rather than more sprawl of urban development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Elaine Power

Planning Inspector

11<sup>th</sup> March 2020