



An  
Bord  
Pleanála

## Inspector's Report ABP 307717-20

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<b>Development</b>	4 houses
<b>Location</b>	Lohercannon, Tralee, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	19/1122
<b>Applicant</b>	Davan Development Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. grant
<b>Appellants</b>	Michael & Niamh O'Donnell
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24/09/20
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site which has a stated area of 0.26 hectares, is accessed via local road L6715 c.1 5.km to the west of Tralee town centre. It forms the southern/eastern portion of a larger plot on which there is a derelict single storey dwelling that has frontage onto the local road. The site is overgrown and largely inaccessible. It is bounded to the south by a small residential development comprising of 4 no. detached, two storey dwellings with the shared boundary delineated by a c.1.8 high block wall. The lands to the east and north are undeveloped. One off single, dormer and two storey dwellings are prevalent in the immediate vicinity.

The 50kph speed limit applies along the road.

## 2.0 Proposed Development

The application was lodged with the planning authority on the **04/11/19** with further plans and details received **04/02/20**, **11/05/20** and **03/06/20** following further information and clarification of further information requests dated 06/01/20, 12/03/20 and 19/05/20 respectively.

Unsolicited information was submitted **12/03/20** with revised public notices submitted 17/02/20 and 12/06/20.

The proposal is for 4 no. semi-detached, two storey 3 bedroom dwellings to be served by a new access immediately to the south of the derelict dwelling. The hedgerow to the north in front of the said dwelling, is to be setback so as to achieve 70 metre sight lines.

Connection to public services is proposed with surface water to be disposed to soakways.

The application is accompanied by:

- Design Statement
- Archaeological Impact Assessment Report
- Landscaping Plan

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission for the above described development subject to 19 conditions. Of note:

**Condition 7:** roadside fence to be set back and the junction of the service road and the public road to be constructed in accordance with details received 03/06/20. Wing walls to be not more than 1 metre in height and to be splayed at an angle of 45°.

**Condition 14:** 25.5 metre buffer zone to be maintained to recorded monument Ke029 119 and to be fenced during construction. Following construction the limit of buffer zone to be planted. All groundworks to be monitored and report to be submitted to National Monuments Service.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The **1<sup>st</sup> Planner's** report considers that the proposal is acceptable in terms of visual and residential amenities of adjoining lands. Further information recommended including details on realignment of open space, surface water disposal and sight lines. The **2<sup>nd</sup> report** following further information recommends clarification of further information on sightlines to the south. The **3<sup>rd</sup> report** dated **07/07/20** considers that the proposal has addressed the reasons for refusal on the previous application. A grant of permission subject to conditions recommended.

#### 3.2.2. Other Technical Reports

**Housing Estates Unit** in a report dated **20/11/19**, in addition to recommending further information, details a schedule of conditions should permission be granted. The **2<sup>nd</sup> report** dated **20/02/20** following further information sets out conditions should permission be granted.

**Area Engineer** in a report dated **02/12/19** recommends further information on sightlines. The **2<sup>nd</sup> report** dated **27/02/20** requires clarification of further information on the sightlines to the south. The **3<sup>rd</sup> report** dated **22/06/20** recommends

conditions, including reduction in height of the wing walls and pillars to improve sight lines

**County Archaeologist** in a report dated **05/12/20** details conditions should permission be granted, including buffer zone to be maintained to hillfort which is a recorded monument.

### 3.3. **Prescribed Bodies**

**Irish Water** in a report dated **22/11/19** recommends further information on disposal of storm water other than to the combined sewer. The **2<sup>nd</sup> report** dated **18/02/20** following further information has no objection subject to conditions.

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

Objections to the proposal received by the planning authority are on file for the Board's information. The issues arising relate to impact on amenities of adjoining property, impact on archaeological heritage, adverse impact on development potential of adjoining lands, traffic hazard, sight lines at entrance and over development of the site.

## 4.0 **Planning History**

**18/1276** – permission refused to renovate and extend the existing dwelling and construct 2 no. dwellings on a site which encompasses the entire plot. The reasons for refusal can be summarised as follows:

1. Proposal would materially impact on setting of a recorded monument and would be contrary to development plan objectives.
2. Proposal would be prejudicial to development potential of adjoining lands.
3. Planning Authority not satisfied that the adequate sightlines can be achieved.

## 5.0 Policy and Context

### 5.1. Tralee Town Development Plan 2009 – 2015 (as extended)

As noted in the Tralee Municipal District LAP 2018 the above continues to be the statutory plan for the town.

The site is within an area zoned R2 existing residential.

#### ***Section 11.4 Existing Residential/Town Centre Area/Built Up Areas (R2/M2/M4)***

It is the policy of the Local Authority to facilitate development that supports, in general, the primary land use of the surrounding built up area. Development that does not support or threatens the vitality or integrity of the primary use of these existing built up areas shall not be permitted.

***Objective HP06*** - Have regard to increased residential densities in appropriate locations in accordance with Sustainable Residential in Urban Areas while ensuring that the overall character of the area shall be maintained.

***Objective HP 22*** - Ensure that residential densities reflect the density of appropriate adjoining development. Higher densities will be considered in the town centre or within close proximity to the town centre.

***Objective AGP01*** - Protect and enhance archaeological monuments and their settings.

***Chapter 12*** sets out the development management standards for residential development.

### 5.2. Natural Heritage Designations

None in the vicinity.

### 5.3. Environmental Impact Assessment

Having regard to the nature and extent of the proposed development on zoned lands within the development boundary of Tralee, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an

environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

The 3<sup>rd</sup> party appeal by Michael & Niamh O'Donnell can be summarised as follows:

- The proposal would adversely impact their property due to overlooking and loss of privacy.
- Traffic hazard would arise due to absence of adequate sight lines and the additional vehicular movements along a road where traffic levels have increased over the last 10 years.
- 4 no. dwellings would result in overdevelopment of the site.
- The planning authority previously refused permission for a small residential scheme on the lands.

### **6.2. Applicant Response**

The submission can be summarised as follows:

- The site is outside but in proximity to the zone of notification of a recorded monument. The application is accompanied by an Archaeological Impact Assessment.
- The land is zoned residential.
- The layout is in accordance with the Guidelines for Sustainable Residential Development in Urban Areas.
- The access achieves the DMRB sightlines to the south without crossing adjoining properties.
- The appellants' property is on the opposite side of the road and is setback 37 metres from the carriageway. There will be no impact on their privacy.

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

None

### 6.4. **Observations**

None

## 7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Zoning Provisions and Suitability of Design
- Impact on Amenities of Adjoining Property
- Site Access
- Appropriate Assessment

### 7.1. **Zoning Provisions and Design**

The site is accessed from local road L6715 on the western outskirts of Tralee within the town boundary, and within an area zoned Existing Residential in the current town development plan (as extended). A small, in-depth development of 4 no. dwellings bounds the site to the south with one off housing prevalent in the vicinity. The existing derelict dwelling which formed part of the original plot, but which is outside the current site boundary, is to be retained.

I consider that the proposal for 4 no. dwelling units can be seen to accord with the applicable zoning provisions and objectives for same in that it is compatible with and will support the primary land use of the surrounding area.

The layout appears to be dictated, somewhat, by the requirement to maintain a 25.5 metre buffer from the southeast limits of the hillfort to the north which is a recorded monument (ref.KE029-112). I note that the site is outside the zone of notification of the monument and is within an area subject of previous archaeological excavation in 2006. No archaeological features were noted within the trenches excavated within the limits of the site at that time. The Archaeological Impact Assessment

accompanying the application states that the buffer is based on the said measured excavated trenching. In the instant case the buffer has been agreed following discussions with the County Council Archaeologist. The mitigation measures detailed in section 6 of the report include the fencing off of the 25.5 metre development buffer to prevent encroachment or accidental damage by construction works with all ground disturbance works to be monitored under licence.

With a site area of 0.26 hectares the proposal equates to a density of approx. 15 units per hectare. Whilst below the 30 unit per hectare minimum recommended in the Guidelines for Sustainable Residential Development, I consider that due cognisance must be taken of the site constraints, specifically its proximity to an archaeological site which is a recorded monument, and the pattern of residential development in the vicinity. With the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining dwellings and to provide for additional residential development I consider that the density can be considered to be acceptable.

The 4 no. three bedroom dwellings are each served by adequate rear private amenity space and 2 no. parking spaces thereby providing for an acceptable level of amenities for prospective occupants. A small public open space is proposed adjacent to the site entrance and accords with the 10% of gross site area requirement of the current Town Development Plan.

The Board is advised that the site is serviced with surface water disposal proposed by way of soakaways.

On the basis of the foregoing I would not concur with the appellants' view that the proposal constitutes overdevelopment of the site.

## **7.2. Impact on Amenities of Adjoining Property**

Due to the layout of the proposed dwellings, which are to be set back into the site, and their angle and orientation relative to those to the south, concerns regarding overlooking or loss of privacy will not arise.

The appellants' dwelling is on the opposite side of the local road and is setback from its roadside boundary. With over 80 metres between their dwelling and the nearest



unit proposed within the scheme, and having regard to their orientation, overlooking and loss of privacy will not arise.

As above due to the set back of the dwellings into the site and subject to appropriate treatment along the northern boundary, the amenities of the existing derelict dwelling to the north, were it to be redeveloped, would not be adversely impacted.

### **7.3. Site Access**

The local road onto which access is proposed is relatively straight in the vicinity of the site. The 50 kph speed limit applies. Sightlines of 70 metres are required. As per the details received by the planning authority on the 03/06/20 the hedgerow to the north, within the applicant's ownership, is to be setback to attain same. No amendments are required to the roadside boundary to the south due to changes made in the access road alignment during the assessment of the application by the planning authority. I note that the Area Engineer considers the proposals to be acceptable subject to certain requirements in terms of the height of the splay wing walls and pillars.

I submit that the additional vehicular movements arising as a consequence of the proposed development, which is small in scale, can be accommodated on the local road without giving rise to concerns of traffic hazard.

### **7.4. Appropriate Assessment**

Having regard to the nature and scale of the proposed development, its location within the development boundary of Tralee on zoned and serviced lands and the separation distance from any Natura 2000 site, 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**

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions

## 9.0 Reasons and Considerations

Having regard to the nature and extent of the proposed development on lands zoned existing residential in the current Tralee Development Plan 2010-2015, as extended, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not have an adverse impact on the cultural heritage of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 4<sup>th</sup> day of February 2020, the 12<sup>th</sup> day of February 2020, the 11<sup>th</sup> day of May 2020 and the 3<sup>rd</sup> day of June 2020 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

**Reason:** In the interest of visual amenity.

3. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

4. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

6. The internal road network serving the proposed development including turning bays, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

7. Wing walls forming the entrance shall be no more than 1 metre in height and shall be splayed at an angle of 45° to the line of the front boundary.

**Reason:** In the interest of traffic safety

8. All screen walls shall be two metres in height above ground level constructed in concrete block and shall be capped and rendered on both sides in a finish that matches the external finish of the dwellings.

**Reason:** In the interest of residential and visual amenity.

9. The landscaping scheme shown on the drawing attached to the landscape plan submitted to the planning authority on the 4<sup>th</sup> day of February 2020 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

10. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

11. Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

12. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and in particular recyclable materials, in the interest of protecting the environment.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall-

- (a) notify the planning authority in writing at least four weeks prior to the commencement of development of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

14. Details of the fencing to be erected along the 25.5 metre buffer to recorded monument ref. KE029-112 shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In order to conserve the archaeological heritage of the area.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the

matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**October, 2020**