



An
Bord
Pleanála

Inspector's Report ABP-307842-20

Development	(A) Alterations and widening of vehicular entrance including splayed walls, (B) Reduction in height and setting back of front boundary wall (C) The demolition/removal of a front garden shed (D) the construction of 2 single storey timber holiday cabins for short term holiday rental use.
Location	BALLYCASHEEN, KILLARNEY, CO KERRY,
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20315
Applicant(s)	Rory Lemass.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Rory Lemass.
Observer(s)	None.
Date of Site Inspection	19 th October 2020.
Inspector	Brid Maxwell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.28 hectares and is located on the southern side of Ballycasheen Road to the southeast of Killarney, County Kerry. The Ballycasheen Road is a suburban road which connects the Muckcross Road (N71) with the N22 (Killarney-Cork) National Primary Road. It is characterised by extensive frontage development as well as a number of small modern housing estate and some commercial uses. In the vicinity of the appeal site there are predominantly single storey dwellings on both sides of the road. There is a footpath on the northern side of Ballycasheen Road but none on the southern side. The site is within the 50kph speed limit along a straight section of road and the existing entrance utilises convex mirrors for viewing oncoming traffic from the east.
- 1.2. The appeal site is occupied by a dwellinghouse with various outbuildings and garages and greenfield lands to the rear south east. Residential development adjoins to the east and west of the existing dwelling. The Flesk River flows to the southeast within circa 80m of the appeal site with dense treeline vegetation adjacent to the river and along the field boundary to the southwest.

2.0 Proposed Development

- 2.1. The application as set out in public notices involves permission for
 - a) Alterations and widening of existing vehicular entrance including splayed walls, pedestrian access gate, boundary footpath and setbacks
 - b) Reduction in height and setting back of front boundary wall
 - c) The demolition / removal of a front garden shed
 - d) The construction of two single storey timber holiday cabins for short terms holiday rental use with pedestrian access and associated private pathway and all associated site works.
- 2.2. The proposal is set out in its detail in the plans and particulars lodged with the application including a Planning and Design Statement by RDF Architects, Flood Risk Assessment by Malachy Walsh and Partners and a Stage 1 /2 road safety audit by MHL and Associates.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 16th July 2020 Kerry County Council issued notification of its decision to refuse permission for the following reasons:

1. The proposed erection of two timber holiday cabins and associated car parking in close proximity to existing residential dwellings would seriously injure the residential amenities of the properties in the vicinity and would set an undesirable precedent for similar developments in the area. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.
2. The access to the proposed timber holiday cabins is considered to be substandard and inadequate to cater in safety for the additional traffic movements generated by the proposed development, The planning authority is not satisfied that the measures proposed to alter the existing entrance would be adequate to avoid a traffic hazard. The proposed development would therefore endanger public safety by reason of traffic hazard.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Planner's report asserts that the outdoor activities associated with short term rental accommodation would be inappropriate in proximity to existing houses. Vehicular access inadequate. Refusal recommended.

3.2.2. Other Technical Reports

3.2.2.1 Biodiversity Officer's report notes location of the site adjacent to the National Park Macgillycuddy Reeks and Caragh River Catchment cSAC but outside its designation and partially within the Killarney National Park Macgillycuddy's Reeks and Caragh River pNHA. The site of the proposed cabins comprises semi improved grassland that is not annexed habitat nor likely to support annexed species. No works are proposed to the River Flesk and associated riparian habitat and having regard to the

distance and lack of hydrological connectivity no significant effects on the SAC are considered likely.

3.2.2.2 Senior Engineer Flood Risk – if permission is granted the underside of the timber cabins to be set at 31.6m OD (OPW water level for the 0.1%AEP at node 22 GLES00431W) and not at 31.5mOD as suggested. The ground levels of the site not to be built up to avoid loss of flood plain storage for the 0.1%. A warning evacuation plan should be put in place for the site.

3.2.2.3 Municipal District Engineer refusal recommended. Recent speed surveys adjacent to the location show ambient speed of vehicles exceeds 50kph. This section of the road has not been built to the standards of DMURS and therefore these standards cannot apply. The distances as set out in TII DN-GEO-03060 would be more applicable.

3.3. Prescribed Bodies

3.3.1 Irish Water submission indicates no objection subject to connection agreement and subject to capacity requirements.

3.4. Third Party Observations

3.4.1 No submissions.

4.0 Planning History

19/939 Refusal of permission to construct two single storey timber cabins for short term holiday rental use with all associated site works. Refusal on grounds of traffic hazard and negative impact on established residential amenity

PL63.206057 (03/20/4109) Following third party appeal the Board overturned the decision of Killarney Town Council and refused of permission for construction of 10 no two storey townhouses including entrance road and footpath and all internal

service roads and footpaths. Refusal was on the grounds of piecemeal uncoordinated disorderly development, substandard development, and traffic hazard.

PL63.206111 (03/20/4110) Refusal of permission to demolition existing garage and part of existing bungalow to cater for new side road and alter entrance as necessary and retain revised house within revised site boundaries. Grounds for refusal was on basis of deficient sightlines to the east.

02/20/3915 Permission granted for retention of garage and storage to front side of house and garden store and kiddies playroom to the rear of house.

5.0 Policy Context

5.1. Development Plan

The site is zoned R2 Existing Residential within the Killarney Town Development Plan 2009-2021 as extended and varied. The relevant objective is “to protect and improve existing residential amenities.” Adjoining lands to the southeast are zoned Agriculture.

Chapter 7 deals with tourism, the strategic aim is to promote Killarney as a premier tourist destination in its own right, offering a high quality, rich and diverse experience to all visitors. Killarney’s position as a tourist accommodation and service centres is noted.

12.3.5 Residential (R1-R4) *“Residential Areas are intended primarily for housing development but may also include a range of other ancillary uses for residential, particularly those that have the potential to foster the development of new residential communities. These uses that benefit from a close relationship to the immediate community, such as creches, some schools, nursing homes. A limited range of other uses that support the overall residential function of the area may also be considered. This category also provides for strategic residential reserve which identifies area which are intended for residential development at some future date.”*

12.64 Commercial Guest Accommodation - Commercial guest accommodation in the form of guesthouses, bed and breakfasts and hostels are normally allowed in

residentially zoned lands. The amenities of existing residential areas should be preserved and improved.

5.2. **Natural Heritage Designations**

The site is immediately adjacent to the Killarney National Park Macgillicuddy's Reeks and Caragh River Catchment SAC. Site Code 000365.

The site is partially within the Killarney National Park Macgillicuddy's Reeks and Caragh River Catchment proposed National Heritage Area pNHA.

5.3. **EIA Screening**

5.3.1 On the issue of Environmental Impact Assessment screening having regard to the limited nature and scale of the development, nature of the receiving environment no likelihood of significant effects on the environment arises from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1 The appeal is submitted by RDF Architects and Planning Ltd. on behalf of the first party. Grounds of appeal are summarised as follows:

- Regarding the issue of impact on established residential amenity the local area has a natural mix of uses with tourism as the focus and the concept of new precedent or negative effect on residential amenity is not founded.
- Multiple applications granted by Kerry County Council over the years. Retention application for additional timber glamping units granted under 17/1276 close to the site. Permission granted for holiday accommodation under 12205326.
- Notably no objection from neighbouring residents.
- Drivers exceeding the speed limit should not form a barrier to development.

- Several other permission granted on this road based on 50kph limit and site distances as utilised in the document. DMURS is appropriate standard within the built-up area and TII documents is not suitable for urban road design.
- More detailed assessment of the sightlines has been produced and by amending the point of the 2.4m setback revision to 2.4m from yellow line the 70m sightline can be achieved.
- Additional tourism resources are needed in this area and the proposal would enhance the amenity of the area and has strong local support.

6.2. Planning Authority Response

The response of the Planning Authority reiterates grounds of refusal.

7.0 Assessment

7.1 I consider that the relevant issues regarding the proposed development can be assessed under the following broad headings:

- Principle of development.
- Traffic and Road Safety
- Quality of design and layout and impact on the amenities of the area.
- Flood Risk
- Appropriate Assessment Screening.

7.2 Principle of Development

7.2.1 I note that the site forms part of an extensive area of land zoned existing residential. *The Development Plan zoning objective provides that whilst Residential Areas are intended primarily for housing development, they may also include a range of other ancillary uses that support the overall residential function of the area. The*

development plan also states that commercial guest accommodation in the form of guesthouses, bed and breakfasts and hostels are normally allowed in residentially zoned lands subject to the preservation and improvement of the amenities of existing residential areas and therefore I consider that the proposal to provide holiday cabins to be acceptable in principle subject to detailed considerations.

7.3 Traffic and Road Safety

- 7.3.1 I note the Council's second reason for refusal relates to the access which is considered inadequate to cater for the traffic movements likely to be generated by the proposed development. I note that the stage 1 / 2 Road Safety Audit by MHL Consulting Engineers submitted with the application identifies a number of problems including the problem of obstructed sightlines at the existing entrance, inadequate entrance width, inadequate pedestrian connectivity, and road markings. Arising from the identified deficiencies the proposal as outlined involves the stepping back of the roadside boundary wall from the road edge with provision for 1.8m wide footpath along the front boundary. The existing vehicular entrance is to be widened to 5.5m to provide for two-way traffic with a 1m wide pedestrian site entrance to be provided to the western side of the vehicular entrance. The initial submission indicated that 45m sight distance and within the grounds of appeal it is asserted that a 70m sightline can be substantially achieved.
- 7.3.2 I note that as conveyed within the report of the Municipal District Engineer surveys on this section of roadway demonstrate that the ambient speed of vehicles exceeds 50kph and I observed this and noted on the date of my site visit that this road is heavily trafficked route. Whilst within the grounds of appeal it is stated that a sightline of 70m can be achieved I note that the provision of same and indeed the 45m sightline will require alterations to the common boundary with the adjacent dwelling to the east. The applicant has not demonstrated the setting back of this common boundary nor provided details of the agreement of the owner of the adjacent dwelling to such alterations. In my view there is a risk of traffic hazard due to inadequate sightlines and therefore permission should be refused on this basis. I

also share the concerns with regard to the lack of pedestrian connectivity and provision for vulnerable road users.

7.4 Quality of Design and Layout and impact on the Amenities of the area

7.4.1 As regards impact on the amenities of the area I note the highly scenic riparian character of the site and I consider that the proposed prefabricated timber frame log cabin design represents an inappropriate approach which fails to respond appropriately to the unique and attractive characteristics of the site. In my view the proposal fails to contribute to a sense of place. I would further consider that the proposal has the potential to give rise to negative impacts on established residential amenity and to set an undesirable precedent for similar such development in the area. On this issue of precedent, I note that the first party refers to recent permissions granted by Kerry County Council for similar type development in the vicinity. I would however sound a note of concern with regard to multiple haphazard and piecemeal proposals for short let glamping / camping sites within a residentially zoned area and consider in any event that each application should be assessed on its own merit.

7.5 Flood Risk

7.5.1 Regarding flood risk, I note that the application is accompanied by a Flood Risk Assessment by Malachy Walsh and Partners, Consulting Engineers. The report notes that there are no specific flood events recorded in the vicinity of the site although there have been flood events upstream at White Bridge. The South Western CFRAM Study shows that the site is liable to flooding. The risk arises directly from the River Flesk or indirectly via overland flow. The assessment notes that the proposal involves location of the proposed cabins within flood zones A and B where the proposed timber cabins are vulnerable to flooding during the 0.1% AEP and the 1% AEP flood events. In terms of mitigation it is proposed that the timber cabins will be elevated above ground levels (35.51mOD) thereby ensuring no displacement of flood plain storage.

7.5.2 It is asserted that the proposed development meets the relevant criteria set out in the justification test and that as regards vulnerability class the proposed cabins would fall within the less vulnerable development category as set out within table 3.1 of the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009. “Land and buildings used for holiday or short let caravans and camping, subject to specific warning and evacuation plans”. I would note certain reservations with regard to the classification of the proposed cabins as less vulnerable development however I note that this is a new issue.

7.6 Appropriate Assessment

7.6.1 As regards appropriate Assessment the site is immediately adjoining the Macgillycuddy Reeks and Caragh River Catchment cSAC. The designated lands comprise the River Flesk and associated riparian habitat. As noted in the report of the Council’s biodiversity officer the site comprises semi-improved grassland that is not annexed habitat and is not likely to support annexed species. Having regard to the nature of the development the lack of hydrological connectivity, and proposed connection to the public wastewater system, significant impact on the SAC can be ruled out. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination that the proposed development , individually or in combination with other plans or projects would not be likely to have significant effect on the Macgillycuddy Reeks and Caragh River Catchment cSAC or any other European site in view of the site’s Conservation Objectives and a Stage 2 Appropriate Assessment is not therefore required.

8 Recommendation

Refusal is recommended for the following reasons.

Reasons and Considerations

Having regard to the configuration and backland location of the site beside the River Flesk, the adjoining lands which are designated Killarney National Park,

Macgillycuddys Reeks and Caragh River Catchment SAC (Site Code 000365) and Killarney National Park, Macgillycuddys Reeks and Caragh River Catchment pNHA, (Site Code 000365) it is considered that the proposed development fails to take account of existing site features representing piecemeal uncoordinated development which would be out of character with and would seriously injure the amenities of nearby property would fail to respond to the unique characteristics of the site and would set an undesirable precedent for similar such development and would accordingly be contrary to the proper planning and sustainable development of the area.

It is considered that the proposed development would endanger public safety by reason of a traffic hazard because the sightlines to the east at the proposed entrance are substandard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

10th November 2020