



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312341-21

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<b>Development</b>	Construct 1 off-road car space with dipped footpath access.
<b>Location</b>	33 Oak Hill, Ballydribbeen, Killarney, Co. Kerry.
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	211166
<b>Applicant(s)</b>	Caragh Neeson
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Sean and Pearl Myers Stephen and Christine Coffey
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> of April 2022
<b>Inspector</b>	Adrian Ormsby

## **1.0 Site Location and Description**

1.1. The appeal site has a stated area of 0.0168ha and is located in the settlement boundary of Killarney Town on lands zoned existing residential. The site is the curtilage of an existing semi detached two storey house in the established housing estate of Oak Hill. The estate is accessed from Willow Grove which serves a number of existing housing estates. Oak Hill includes 38 houses. The site is c. 1km north of Killarney Town Centre.

## **2.0 Proposed Development**

2.1. The application comprises of-

- One number off-road car space and
- A dipped footpath access

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant permission on the 02/12/21 subject to 3 conditions.

- Condition 2 sought a special development contribution of €2,500 towards the provision of dropping the kerb.
- Condition 3 set out the Council's requirements in terms of the formation of a new entrance.

## **4.0 Planning Authority Reports**

### **4.1. Planning Reports**

The Planners Report dated 01/12/21 generally reflects the decision of the Planning Authority.

- The report notes the submission of a positive report from the Municipal District Engineer in relation to the development.

#### **4.2. Other Technical Reports**

- Roads Transportation & Marine Department
  - 12/11/21- the report details a request for further clarification is required but it is noted the report sets out a number of conditions if the development is permitted including-
    - Surface water and existing road side drainage requirements
    - A specific development contribution of €2,500 towards the provision of dropping the kerb.
- Kerry National Roads Design Office-
  - 20/10/21- No observations

#### **4.3. Prescribed Bodies**

- Transport Infrastructure Ireland-
  - 09/11/21- No observations

#### **4.4. Third Party Observations**

- Two third party submissions were received. Concerns raised generally include those as set out in the grounds of appeal in section 7.1 below.

### **5.0 Planning History**

- None recent

### **6.0 Policy Context**

#### **6.1. Ministerial Guidance**

- Design Manual for Urban Roads and Streets 2013-

- Section 4.4.4- Forward Visibility
- Section 4.4.5- Visibility Splays
- Table 4.2- Reduced SSD standards for application within cities towns and villages

## 6.2. Development Plans

- Kerry County Development Plan 2015-2021
- Kerry Municipal District Plan 2018-2024
- Killarney Town Council Development Plan 2009-15 as extended and varied (Variation no 4 Killarney Town Plan adopted 17th December 2018).

## 6.3. Natural Heritage Designations

- Killarney National Park, Macgillycuddy's Reeks And Caragh River Catchment SAC 000365 is located as close as c.200m west of the site
- Killarney National Park SPA 004038 is located as close as c.650m south west of the site.

## 6.4. EIA Screening

- 6.4.1. An Environmental Impact Assessment Screening report was not submitted with the application. The proposed development is not listed as requiring mandatory EIA as per Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended). By reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

## 7.0 The Appeal

### 7.1. Grounds of Appeal

Two third party appeals has been received from the following-

- Stephen and Christine Coffey of No. 3 Oak Hill
- Sean and Pearl Myers of No. No. 4 Oak Hill

The grounds of appeal are accompanied by photographs and can be summarised as follows-

- The submitted drawings do not accurately reflect the site, the road, existing car parking in the area and sightline visibility. The development could impact cyclists and pedestrians coming from the top of the estate.
- The proposals could lead to inappropriate parking impacting upon pedestrian movement.
- The proposed entrance width is excessive.
- The road is narrow and there is an absence of a footpath opposite the site.
- The estate can be subject to difficult conditions during cold weather and water can pool on the road surface.

### 7.2. Applicant Response

The applicant's response to the grounds of appeal includes photographs and can be summarised as follows-

- They agree with the council's decision to grant permission subject to three conditions.
- The estate has a rambling/meandering layout with different gradients to compliment the original site.
- There are some communal parking spaces in the estate.
- The applicants have acquired an electric vehicle which prompted them to make the application.

- There are speed bumps within the estate and general speed is low.
- There is adequate sight distance in both directions from the proposed entrance.
- It is ludicrous to suggest the applicants will parallel park across the entrance and hinder pedestrians.
- No one has control of the weather and icy conditions can occur. The proposed development will not exacerbate this.
- The road is six metres wide and there is only one footpath at the site. It is not narrow and the appellants will still be able to enter and exit their properties.

### **7.3. Planning Authority Response**

- None received

### **7.4. Observations**

- None received

## **8.0 Assessment**

### **8.1. Introduction**

8.1.1. I have examined the application details and all other documentation on file, including the appeals. I have inspected the site and have had regard to relevant local/regional/national policies and guidance.

8.1.2. I consider that the main issues for this appeal are as follows-

- Zoning and Principle of Development
- Road and Traffic Safety
- Special Contribution
- Appropriate Assessment

## 8.2. Zoning and Principle of Development

- 8.2.1. The site is zoned as 'Existing Residential' (R2) in the Killarney Town Council Development Plan 2009-15 as extended and varied (Variation no 4 Killarney Town Plan adopted 17th December 2018). The proposed development is consistent with this zoning and is acceptable in principle.
- 8.2.2. The appellants have detailed there is already communal parking available within the estate. Notwithstanding this, I am satisfied the site has the capacity to provide for an in curtilage car parking space and provision of same would not be out of character with the area and would not impact negatively upon visual or residential amenities.

## 8.3. Road and Traffic Safety

- 8.3.1. Although not specially described in the public notices the application is for a vehicular entrance and car parking space to the side of the applicants house. I would have expected the development description to state a new entrance is proposed and the drawings would provide detailed dimensions of same. The Planning Authority have validated and accepted the application.
- 8.3.2. The boundary of the application site to the public footpath includes low rail style fencing on a kerb plinth. Drawing No 01 states '2 no lengths of fencing to be removed to allow for access'. This fencing identified for removal is shown in red and based on the identified scale I estimate the removal to be c. 5m wide.
- 8.3.3. Drawing No. 4 states the proposal is to remove 8 no. roadside kerbs and an existing concrete length of approximately 6 metres and a dimension of 5.1m is shown. These matters would appear to be works to public property and are more appropriately addressed through the provisions of the road opening licence process which would be separate to a planning application.
- 8.3.4. I tend to agree with the Appellants in relation to the lack of details in the drawings. However, having reviewed the drawings and the contents of the application including the two appeals I am satisfied the intention of the application was clear, the public had the opportunity to make their submissions as borne out by the appeals and it is reasonable to consider the application on this basis. Furthermore discrepancies can adequately be addressed by condition.

- 8.3.5. A vehicular entrance of c. 5.1m is considered excessive and not necessary for one vehicle parking space which is what the applicants have sought. In this context and should the Board grant permission it is recommended the width of the entrance should be no wider than 3.5m which would be reasonable and in keeping with existing entrance widths in the area e.g. house numbers 5-10.
- 8.3.6. The Appellant's concerns also relate to visibility from the entrance, pedestrian movement and general road safety concerns. Section 4.4.4 and 4.4.5 of the Design Manual for Urban Roads and Streets (DMURS) provides guidance for visibility splays and stopping sight distances. Table 4.2 recommends standards for application within cities, towns and villages based on the design speeds of roads.
- 8.3.7. The application site is located in an existing residential estate which is a cul de sac serving 38 houses. A number of the house are located before the proposed development. I have considered the nature of residential traffic in the area, the design speed of the roads and the likely speed of traffic in such an area.
- 8.3.8. DMURS recommends a 'Y' distance of 7m-45m based on speeds of 10-50 kph. Based on an 'X' distance setback of c. 2m I am satisfied site distances within this range are achievable in both directions from the entrance. I also consider the presence of the existing rail style boundary fencing, the existing footpath and the road gradient in the area will ensure pedestrians, cyclists and drivers will be able to observe any overhang of the public path and road by a vehicle from the proposed development (i.e. the point of the X distance) as advised by DMURS in such scenarios.
- 8.3.9. I note the weather concerns and impacts of same on the road to the estate as raised by the appellants. These concerns already exist and Condition 3 of the Planning Authority's decision addresses roadside drainage concerns from the site. If permission is granted is recommended a similar condition be attached.
- 8.3.10. Having regard to the residential zoning of the site, the existing nature of the site in a housing estate and the small scale of the proposal, I do not consider the proposed development would contribute to significant road safety concerns nor would it create a traffic hazard.



#### **8.4. Special Contribution**

8.4.1. The Planning Authority have sought a Special Development Contribution of €2,500 under section 48 (2) (c) towards the cost the provision of a dropping the footpath.

The applicants have not sought to appeal this condition and generally an applicant should not benefit from a third party appeal which objects to the development as a whole.

8.4.2. However, in this context and given the small nature of the application I consider the cost of such works to public property should be at the expense of the developer but the most appropriate mechanism for seeking same would be through the provisions of the road opening licence process. Accordingly I do not recommend attachment of a condition seeking a special contribution.

#### **8.5. Appropriate Assessment**

8.5.1. Having regard to the nature of the proposed development, its location in an established residential estate in an urban area and its and its proximity to European sites, it is considered that no Appropriate Assessment issues arise and the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any designated European site.

#### **9.0 Recommendation**

9.1. I recommend permission is granted subject to the following conditions-

#### **10.0 Reasons and Considerations**

Having regard to the provisions of the Killarney Town Council Development Plan 2009-15 as extended and varied (Variation no 4 adopted 17th December 2018), the residential nature of development in the area and the scale of the proposed development, 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, would not result in a traffic hazard and would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application 12<sup>th</sup> day of October 2021, 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. The proposed development shall be amended as follows:

(a) The vehicular entrance shall be no wider than 3.5m.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of clarity and visual & residential amenity.

3. The road works associated with the proposed development including the setting out of the entrance, paving and surface finishes shall be carried out and completed in accordance with the requirements of the planning authority.

Reason: In the interest of traffic safety and orderly development.

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

Reason: In the interest of public health and to ensure a proper standard of development.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 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 residential amenities of property in the vicinity.

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Adrian Ormsby  
Planning Inspector

20<sup>th</sup> of May 2022