



An
Bord
Pleanála

Inspector's Report

ABP-316034-23

Development	House and associated works
Location	West Main Street, Castlegregory, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	22/1071
Applicant(s)	Gregory Murphy
Type of Application	Outline Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Gregory Murphy
Observer(s)	Padraig Griffin Fergus Moroney
Date of Site Inspection	13 th July 2023
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.068ha is located on West Main St, Castlegregory at the northwest end of Castlegregory village. The site is a walled plot with an uninhabited two storey building of architectural character on the adjoining site to the east. The site is located on a bend on the road with a single white line. There is a narrow footpath adjoining the site. The immediate area is characterised as low density residential development, typical of any coastal village with a former public house / restaurant directly opposite the site. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Outline planning permission is sought for a dwelling house and associated siteworks. It is proposed to source water from the public mains and connect to the public sewer.
- 2.2. Further information was received on 6th December 2022, 16th December 2022 and 20th January 2023. The information may summarised as follows:
- Position of site entrance relocated further west giving a stated increased sightline of circa 45m eastwards towards the village centre and in excess of 70m to the western approach.
 - Revised public notices.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Kerry County Council issued a notification of decision to refuse planning permission for the following reason:

The site is located on a road where sightlines are severely restricted. Therefore, it is considered that the traffic movements generated by the proposed development would endanger public safety by reason of traffic

hazard. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The **Case Planner** in their first report requested further information stating that *there are presently insufficient sight lines available adjoining the L-8019 from the proposed entrance.* Further information was requested on 5th December 2022 requiring a revised site layout plan demonstrating acceptable sightlines and associated improvements.
- In their second report the Case Planner recommended that permission be refused on grounds of traffic safety in line with the recommendation of the Roads Department. The notification of decision to refuse permission issued by Kerry County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Roads Department** – Further information was sought in relation to available sight distances. Having considered the further information submitted it was recommended that permission be refused as the proposal would constitute a traffic hazard.

3.3. **Prescribed Bodies**

- **Irish Water** – No objection

3.4. **Third Party Observations**

3.4.1. **Planning Application** - There is one observation recorded on the appeal file from Fergus Moroney, West Main St, Cloonsquire, Castlegregory. Stated that they are not objecting to the scheme. The issue raised relates to the preservation of trees growing on the western side of the site as they are a haven for birds.

3.4.2. **Further Information** - There are two observations recorded on the appeal file from (1) Fergus Moroney, West Main St, Cloonsquire, Castlegregory and (2) Padraig Griffin, 51 News St, Killarney. The issues raised relate to proximity to adjoining property to

the west, planning application is invalid, non-compliance with the LAP, visual impact and traffic safety.

4.0 Planning History

- 4.1.1. There is no evidence of any previous appeal at this location. No planning history has been made available with the appeal file. I note from the Case Planners report that *permission was previously refused to the applicant for a glamping site on this plot as per Reg Ref No 19/1304, on grounds of traffic concerns and deficiencies in the public sewer system.*

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Kerry County Development Plan 2022-2028**. Section 3.10.2 Settlement Hierarchy identifies Castlegregory as a village and Section 5.5.1.2 Rural Areas Under Urban Influence states that it is a *settlement with some form of wastewater treatment*. I also refer to the **Corca Dhuibhne Electoral Area Local Area Plan 2021-2027**. The site is located on lands *Zoned C5 – Tourism & Related* where residential is “open to consideration” on this zoning.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located in or immediately adjacent to a European Site

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. The need for 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

6.1.1. The first party appeal has been prepared and submitted by the applicant's agent and may be summarised as follows:

- The site is located within the village boundary adjacent to existing dwellings and opposite a public house, restaurant. It is served by a public footpath, street lighting and public sewer and wastewater services. It is within the fabric of the village.
- Under the current Corca Dhuibhne Electoral Area Local Area Plan 2021-2027 the site falls within the zone for "tourism and related" and in the Planners report it is stated that the proposal for a residential unit is "open to consideration".
- The overreaching National and Local Guidelines for residential development encourages and promotes development within existing urban settlements to avoid urban sprawl and to help maintain viable communities and services within existing towns and villages. This is reflected within the current County Development Plan Settlement Strategy. Further the "Town Centre First" report highlights the urgency in providing suitable residential accommodation within out towns and villages.
- In 2022 "Workshop Architects" prepared a report in collaboration with Castlegregory Tidy Town Committee on behalf of the RIAI Town Challenge Special Award. The report states inter alia that one of the main recommendations was that the speed limit within the village be reduced from the current 50 km/hr to 30 km/hr.
- The proposed sightlines for the site are 45m to the east and 75m westwards. These are achieved by the standard methods of forming a recessed spayed entrance and by also lowering the boundary walling as necessary along the adjoining frontage which is also in the ownership of the applicant, as proposed in the planning application. Note that there were no comments in the Planners report to contradict these figures and calculations.
- DMURS recommends an access junction set-back (x distance) of 2.4 metres and a y-distance (stopping sight distance) of 45 metres for a 50 km/hour design speed. The revised proposed site layout plan access junction visibility splays and stopping sight distances are in accordance with the foregoing DMURS standards, based on

DMURS Figure 4.63 (constraint on overtaking). The existing adjacent street has a continuous centreline road marking and a narrower eastern section width, which are constraints on overtaking.

- Therefore, based on DMURS, the proposed development would not endanger public safety by reason of traffic hazard, and the proposed development would not be contrary to planning and sustainable development of the area.
- This coupled with the stated National and Local Policies for housing objectives within existing residential settlements would indicate that the decision to refuse permission is incorrect and should be overturned.

6.2. Planning Authority Response

6.2.1. None

6.3. Observations

6.3.1. There are two observations recorded on the appeal file from (1) Fergus Moroney, West Main St, Cloonsuire, Castlegregory and (2) Padraig Griffin, 51 News St, Killarney.

6.3.2. The issues raised relate to proximity of development to observers property, removal of trees, impact on privacy, impact on biodiversity, tress should be retained, sightlines across neighbouring properties if required should be included together with relevant consent, the validity of the application in the first instance, does not comply with the Development Plan, would seriously detract from the village streetscape, traffic hazard, no footpath across the road or continuity of footpath, no property at the address and no village sewage treatment system.

6.4. Further Responses

6.4.1. None

7.0 Assessment

7.1. This assessment is based on the plans and particulars submitted with the application together with further particulars submitted with the further information on 6th December 2022, 16th December 2022 and 20th January 2023.

7.2. I note the concern raised by the observer to Planning Authority and the Board with the regard to the validity of the planning application as the site is within the garden space of an existing house that would require retention for a revised site boundary. As the Planning Authority accepted the application and did not raise any concerns re same and that the Board have accepted the appeal, I do not propose to deal with this matter any further in this assessment.

7.3. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Traffic Safety
- Residential Amenity
- Other Issues
- Appropriate Assessment

7.4. **Principle**

7.4.1. Outline planning permission is sought for a dwelling house on this infill site within the development envelop of Castlegregory on lands zoned C5 – Tourism & Related as per the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027 where residential development is “open for consideration”. Having regard to the zoning objective for the site I am satisfied that the principle of a dwelling is acceptable subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

7.5. **Traffic Safety**

7.5.1. Kerry County Council refused planning permission as the traffic movements generated by the proposed development would endanger public safety by reason of traffic hazard as sightlines lines are severely restricted at this location.

7.5.2. As observed on day of site inspection sightlines are severely restricted at this site. While the front boundary of the site can be lowered and set back, I agree with the

findings of the Roads Engineer that the required sightlines necessary in an area where the 50km/hr apply are not available.

- 7.5.3. Notwithstanding the foregoing, the location of this infill site within the development envelop of Castlegregory on zoned serviced lands cannot be discounted. As observed on day of site inspection restricted sightlines to a greater or lesser degree are a characteristic in the immediate area given the horizontal alignment of the road, its narrow width closer to the village, the location of properties close to the road and absence of both adequate setback and footpath in sections. All these physical parameters serve to reduce speeds and, in my view, of themselves encourage safer more responsible driving. Accordingly, I consider that in terms of traffic and pedestrian safety, and subject to standard conditions, that the vehicular movements generated by the proposed development of a single dwelling would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. It is therefore recommended that the reason for refusal be set aside and permission granted subject to conditions.

7.6. Residential Amenity

- 7.6.1. Having regard to the location of the site, the existing mature trees along the western boundary, its proximity to an existing, albeit unoccupied two storey period building of architectural merit and character along the eastern boundary together with existing residential units also in close proximity to the site that it is imperative that any proposed residential development at this location is carefully designed to ensure no unnecessary detrimental impact to the visual amenities of the village and residential amenities and privacy of adjoining properties. I am satisfied that this this mater can be dealt with by way of suitably worded condition requiring the submission of a detailed landscaping plan for the entire site to include the preservation of tress along the western boundary of the site, desing proposals to protect the privacy and amenity of existing adjacent properties while having regard to the design and character of the built environment in the vicinity.

7.7. Other Issues

- 7.7.1. **Development Contributions** – I refer to the Kerry County Council Development Contributions Scheme 2017. It is recommended that should the Board be minded to grant permission that a Section 48 Development Contribution condition is attached.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development and its distance to 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. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the following reason.

9.0 Reasons and Considerations

Having regard to the policy and objectives as set out in the Kerry County Development Plan 2022-2028 and the zoning objectives for the site as set out in the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027 in respect of residential development, to the pattern of existing and permitted development in the area it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing visual character 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.	<p>This outline permission relates solely to the principle of the development on this site. Plans and particulars to be lodged for permission consequent on this grant of outline permission shall include:</p> <ul style="list-style-type: none">a) A detailed landscaping plan for the entire site to include the preservation of trees along the western boundary of the siteb) Proposals to protect the privacy and amenity of existing adjacent propertiesc) Design proposal which has regard to the design and character of the built environment in the vicinityd) Design proposal to achieve safe vehicular access / egress from the site <p>Reason: In the interest of clarity and to define the subject matter for consideration at permission consequent stage.</p>
2.	<ul style="list-style-type: none">a) Water supply and drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.b) Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water. <p>Reason: In the interest of public health and surface water management.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>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. All</p>

	<p>existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
5.	<p>The developer shall not interfere with the public road / footpath or road drainage without consulting and reaching agreement with the Planning Authority. No material associated with the proposed development shall be stored or deposited on the public road and / or footpath during the construction period without prior consent of the Planning Authority</p> <p>Reason: In the interest of public safety and to ensure the integrity of the public roads / footpaths</p>
6.	<p>The construction of the development shall be managed in accordance with a Site Traffic and Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.</p> <p>Reason: In the interests of amenities, public health and safety</p>
7.	<p>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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>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 the commencement of development or in such phased payments as the</p>

<p>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.</p> <p>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.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Mary Crowley

Senior Planning Inspector

16th July 2023