



An
Bord
Pleanála

Inspector's Report

ABP-318229-23

Development

(a) Demolition of outbuilding, (b) extension of existing estate road to serve 1no. proposed single-storey detached dwelling house (site a) and 1no. existing dwelling house (site b) which is to be redeveloped to include partial demolition of extensions to north and south elevations, construction of single-storey extensions to north and south elevations with reorientation of existing house layout, (c) construction of new single-storey detached dwelling house on site c utilising existing vehicular access onto Gortboy Road. (f) all with connections to all public utility services with all associated site works.

Location

Kilcolman Drive, Gortboy, Newcastlewest, Co. Limerick..

Planning Authority Ref.

Limerick City and County Council..

Applicant(s)

Donal Hagan.

Type of Application

Permission

PA Decision

To grant permission with conditions.

Type of Appeal

Third Party

Appellant

Toni & Jason Glasper
Michael & Mary Copse
Nora Ryan

Observer(s)

None on file

Date of Site Inspection 30th January **Inspector** Des Johnson
2024.

Context

1. Site Location/ and Description.

1.1 Kilcolman Drive is located a short distance north of the R521 in a predominantly residential area towards the north-eastern outskirts of Newcastlewest, Co. Limerick. The site is linear in shape, and extends from the R521 northwards along the side and to the rear of houses on Kilcolman Drive.

1.2 There is an existing unoccupied dwelling on the central section of the site with access on to the R521. The site is generally overgrown. A site notice is erected at the end of a short cul de sac at Kilcolman Drive, on which there are 5 detached and two semi-detached dwellings.

2. Description of development.

2.1 The proposal is for the demolition of an existing outbuilding, the extension of the existing cul de sac Kilcolman Drive to serve an existing dwelling which is to be redeveloped and a proposed dwelling, construction of a single storey detached dwelling utilising existing access on to R521 (Gortboy Road), and all associated services.

2.2 The gross floor area of the existing dwelling and shed is stated to be 98.8 sqm, the gross floor area proposed is stated to be 348.6 sqm, and the gross floor area to be demolished is stated to be 27.5 sqm. The site area is stated to be 0.14ha. It is proposed to connect to existing public services.

2.3 The individual site areas are 444 sqm for the northerly site, 325 sqm for the central site, and 431 sqm for the southerly site. House types proposed are single-storey. Private amenity space proposed for the northerly site is 112 sqm, for the central site is 70 sqm, and for the southerly site is 66 sqm.

2.4 The extended cul de sac at Kilcolman Drive would have a radius of 6.0m and extended footpaths.

2.5 Further Information was submitted on 24th August 2023. This states that legal advice is that Kilcollman Drive can be extended once planning permission is

obtained. Sightlines of 70m can be achieved without any adjustment of neighbouring properties. A Site Layout Drawing indicates private open space provision of 112 sqm 81 sqm and 66 sqm for the three sites. A public lighting layout and specification for public lighting to the extended turning circle is submitted. Individual sustainable drainage solutions are proposed for managing rainwater disposal. Responses are given to the issues raised in 4 objections submitted.

3. Planning History.

3.1 Reference 21/1105 – withdrawn. Application for 3 dwellings and extension of residential estate road into Kilcolman Drive.

3.2 Reference 13/119 – permission granted for two-storey detached dwelling, domestic shed, entrance, and driveway on an adjoining site to the south-east.

4. Planning Policy

4.1 The Limerick City and County Development Plan 2022-2028 came into effect on 29th July 2022. Section 13.2 refers to Local Area Plans. The Development Plan states that the strategic and broad ranging policies and objectives of the Plan provide a general framework for Limerick City and Suburbs., but does not necessarily include the local level details and policy objectives required for development proposals in certain settlements. Local Area Plans will remain in place and reviewed in accordance with the requirements of the Planning and Development Act 2000 (as amended) for settlements ... including Newcastle West.

4.2 The Newcastle West Local Area Plan 2017-2020 zones these lands 'Existing Residential'. This zoning provides for new residential development and other services associated with residential development.

4.3 The Newcastle West Local Area Plan 2023-2029, came into effect on 25th January 2024. The site is zoned 'Existing Residential'.

5. Natural Heritage Designations

- Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA – c.5.5km to west. Qualifying interest is the Hen Harrier.
- Askeaton Fen Complex SAC – c.13.9km to north-east. Qualifying interests are calcareous fens and alkaline fens.

- Ballymorriskreen Marsh pNHA – c.13.9km to the north-east.

Development, Decision and Grounds of Appeal

6. PA Decision.

6.1 Grant permission subject to 10 conditions.

6.2 Conditions relate to the following:

- Condition 1: Standard compliance
- Condition 2: Financial contribution
- Condition 3: Road construction specification
- Condition 4: Undergrounding of service cables
- Condition 5: Revised public lighting scheme
- Condition 6: Surface water drainage requirements
- Condition 7: Working hours
- Condition 8: Construction traffic requirements
- Condition 9: Construction Management and Delivery Plan
- Condition 10: Waste Management Plan

6.2 The Planners Reports note that the site is immediately adjacent to Kilcolman Drive. The principle of providing residential development at this location is consistent with plans and policies of the Local Area Plan and County Development Plan. This is an infill site. There would be no significant negative impact on existing residential development on Kilcolman Drive. In response to FI request the applicant indicated the boundary wall for demolition is within his folio. Kilcolman Drive is in charge of the Council since 2012. The provision of private open space for the 3 sites is considered adequate, having regard to the infill nature of the site. Roads Section recommend conditions in the event of permission being granted. Roads Report recommends conditions.

Uisce Eireann report raises no objection.

7. Third Party Appeal.

There are three third party appeals. These are summarised as follows:

Michael & Mary Copse

1. The planning authority failed to address issues raised by way of objection. The response to the Further Information request issued by the planning authority was inadequate.
2. The applicant has not shown that he has correct legal interests in structures proposed for demolition. It is proposed to demolish party walls without consent from landowners.
3. Waste water and sewerage facilities serving Kilcolman Drive are grossly over capacity. Frequent blockages require remedial works. The applicant has not demonstrated the adequacy of these services to serve the proposed development. The existing storm water disposal system is over capacity.
4. The proposed development would give rise to traffic hazard and change the character of Kilcolman Drive from a cul de sac to a through road. The entrance to Kilcolman Drive is already at full capacity.
5. Noise, dust, overlooking and vibration nuisance will occur injuring residential amenity.
6. Overdevelopment of the site which is insufficient to accommodate the proposed three houses. Proper planning and sustainable development would be achieved by the construction of a single residence utilising the existing entrance opening on to the Gortboy Road.
7. Inadequate car parking is proposed. Inadequate open space is proposed. Existing open space servicing housing on Kilcolman Drive lacks capacity to absorb further developments.
8. The design of the proposed houses would be out of character with existing housing on Kilcolman Drive.
9. Devaluation of existing properties.

The submission includes a series of photographs showing flooding in the vicinity.

Nora Ryan

1. The planning authority failed to address issues raised by way of objection. Some key issues are left to be answered by submissions prior to the commencement of works.
2. Flooding has occurred at the 'hammerhead' turning area, and the concrete panel fence which it is proposed to remove to form a new turning circle and provide access to two of the proposed houses. Photographs are submitted. The cause of the flooding is indeterminated and there is concern that the proposed development could worsen the issue. The floor levels of the proposed houses would make them liable to flooding. A full assessment of the existing surface water sewer within Kilcolman Drive is needed. Other solutions proposed such as 'rainwater harvesting systems' and 'rain gardens' may not be practical.
3. In the event of the Board deciding to grant permission, appropriate conditions (conditions recommended) should be attached, including survey to determine the cause of existing periodic flooding, determine the capacity of the existing sewer, and testing of ground conditions.
4. A 'bond' condition should be attached to any permission relating to the construction of the new section of road, paths etc.
5. There is a parcel of land behind the northern of the three sites that would become landlocked and become a vacant lot. This may become an eyesore to the detriment of surrounding properties.

Toni & Jason Glasper

1. The appeal property does not have an address of Kilcolman Drive. It was never part of Kilcolman Drive (Folio Drawing submitted). The appellants do not consent to the developer breaking through the boundary wall to use as an entrance to the proposed development. The correct address for the subject site is Gortboy.
2. Section of the boundary which is proposed for demolition is not owned by the applicant.
3. The applicant did not demonstrate that sufficient private open space is provided on Sites 1 and 2.

4. Kilcolman Drive Storm Water Disposal and Sewer system is already over extended.
5. Parts of this estate are prone to heavy flooding. No information is submitted to demonstrate that the proposed development would not exacerbate this issue. A series of photographs is included in this submission.

8. Responses

8.1 Applicant's Response

1. The proposed houses are not located within a flood zone and are not at risk of flooding.
2. There would be a negligible effect on the sewers serving the area. Photographs submitted show flash flooding which appears to be the result of blocked gullies. Suds design will reduce the amount of water being disposed of through Kilcolman Drive.
3. There is no issue in providing a bond to ensure the completion of the proposed turning circle.
4. The outbuilding to be demolished is in the applicant's ownership.
5. Private open space provision exceeds minimum requirements.
6. Irish Water will confirm capacities and connections. The existing house already has a sewer connection, and the other two houses will connect to the foul sewer system within Kilcolman Drive, which has the capacity for two additional houses.
7. Kilcolman Drive will remain a cul de sac.
8. A construction management plan will be implemented.
9. This is a brown field site in a large residential area, and the proposed 3 houses represent good use of the site and sustainable development.

Environmental Screening

9. EIA Screening

- 9.1 Having regard to the nature and scale of development on an infill site in an established residential area, and the absence of significant environmental

sensitivity in the vicinity of the site, 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 at preliminary examination and a screening determination is not required.

10. AA Screening

10.1 Having regard to the nature and scale of development on an infill site in an established residential area, and to the separation distance and absence of any direct pathways to Natura 2000 sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. I submit that the key planning issues arising in this case broadly fall under the following headings:

- Principle of residential development
- Public services
- Legal issues
- Residential amenities
- Traffic
- Environmental assessments

Principle of Residential Development

2.2. This is an infill site in an established residential area. There is an existing unoccupied dwelling on part of the site. The site is zoned for residential use and would be consistent with the provisions of the Limerick City and County Development Plan 2022-2028, which came into effect on 29th July 2022, and the Newcastle West Local Area Plan 2023-2029, which came into effect on 25th January 2024. The site adjoins existing residential development. In principle, I submit that the proposal to develop the site for residential development is acceptable.

Public services

- 2.3. It is proposed to connect to existing public services. Appellants contend that the existing public services are at capacity. The applicants point to the fact that the existing dwelling on the site is connected to public services and that the additional loading from the development would be small, and could be catered for by the existing services. I note that Uisce Eireann, in a report to the planning authority dated 18th October 2022 raised no objection to the proposed development, while making a number of observations in respect of each dwelling. Based on the information on file, I conclude that the additional loading arising from the proposed development would be small, and that the existing public water and sewerage services have the capacity to service the proposed development.
- 2.4. The appellants point to recent flooding on Kilcolman Drive. The applicants state that this flooding appears to have occurred due to blocked drains. By way of a request for Further Information, the planning authority requested a revised Surface Water Disposal Plan and, in response, the applicants proposed individual sustainable drainage solutions for managing rainwater disposal. This includes a 1500L rainwater harvesting system for each dwelling connected to internal sanitary services, and rain gardens, reducing storm-water disposal to the public network. Condition 6 of the planning permission under appeal requires the submission, for written agreement of the planning authority prior to the commencement of development, of a revised Surface Water Drainage proposal to include a requirement that all surface water run-off from the public road be accommodated within the site, and that all run-off from roofs, entrance and parking areas within the site be collected and disposed of within the site. I note that the site is not within a Flood Zone as contained in the Newcastle West Local Area Plan 2023-2029. In these circumstances, I conclude on this issue that, subject to surface water drainage being to the requirements of the planning authority, the proposed development is not likely to be liable to flooding or the cause of flooding.

Legal issues

- 2.5. There are conflicting claims regarding the legal entitlement to carry out at least some of the proposed works, including the demolition of 'party walls' claimed by the appellants. The appellants question the applicant's legal entitlement to extend the

existing cul de sac, but this is disputed. I contend that this is a legal and civil matter which cannot be resolved by the Board. I draw the Boards attention to Section 34(13) of the Planning and Development Act 2000, as amended which states that “a person shall not be entitled solely by reason of a permission under this section to carry out development”.

Residential Amenity

- 2.6. The proposed dwellings are single storey. The houses types proposed have bedroom and/or dining room windows, and doors facing east on to a divisional boundary/wall 2.1m tall (maximum). Having regard to the elevation of the sites relative to adjoining developments, I conclude that no overlooking of adjoining properties from the proposed houses would occur.
- 2.7. The Site Layout Drawing submitted by way of Further Information indicates private open space provision of 112 sqm 81 sqm and 66 sqm for the three sites. This is in accordance with Development Plan requirements and is considered acceptable
- 2.8. It is proposed to extend the existing cul de sac to provide access to two of the proposed houses. The appellants argue that this would change the character of the cul de sac. I do not accept this as Kilcolman Drive will remain a cul de sac, albeit with a revised turning circle at the end of the road. The provision of single storey houses would not have a detrimental impact on the character of the area.
- 2.9. I contend that there is no convincing evidence to indicate that the proposed development would give rise to undue noise, dust or vibration. Any impacts would be limited and temporary in nature. Condition 7 of the planning authority’s decision includes requirements in relation to construction hours, which I consider to be reasonable. There is no convincing evidence that the proposed development would lead to a devaluation in property values in the area.

Traffic

- 2.10. Proposed sites 1 and 2 would gain access from the cul de sac head at Kilcolman Drive, and site 3 would utilise the existing access on to the R521. Traffic generated by the proposed houses would be small. Subject to the cul de sac extension (including footpaths) being constructed to the requirements of the planning authority, I find no reason to conclude that the proposed development would give rise to traffic hazard or obstruction of road users.

Environmental Assessments

- 2.11. Having regard to the nature and scale of development on a brownfield infill site in an established residential area, and the absence of significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, be excluded at preliminary examination and a screening determination is not required.
- 2.12. Having regard to the nature and scale of residential development on a brownfield infill site in an established residential area and to the separation distance and absence of any direct pathways to Natura 2000 sites, and to the qualifying interests for those sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

3.0 Recommendation

- 3.1. I recommend that permission for the development be granted.

4.0 Reasons & Considerations

- 5.0 Having regard to the nature and scale of development proposed on a brownfield infill site in an established residential area, and to the provisions of the Limerick City and Council Development Plan 2022-2028 and the Newcastle West Local Area Plan 2023-2029, it is considered that the proposed development, subject to compliance with the following conditions, would not be injurious to the character or amenities of residential property in the vicinity, would not give rise to traffic hazard or obstruction of road users, and would be in accordance with the proper planning and sustainable development of the area.

6.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 26th day of September, 2022, as amended by the further plans and particulars submitted on the 24th day

of August 2023, 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 developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

3. Surface water drainage arrangements associated with the proposed development shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health and orderly development.

4. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

5. Details of the external finishes of the proposed houses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. All road works serving the development, including the cul de sac and pavement extensions and access on to the R521, shall be to the requirements of the planning authority.

Reason: In the interest of traffic safety and convenience.

7. All service cables associated to the proposed development, including electrical, communal television, telephone and street lighting cables shall be laid underground within the site, to the satisfaction of the planning authority.

Reason: In the interests of orderly development and visual amenity.

8. Construction hours for the proposed development shall be in accordance with the following:

- No works shall take place on site outside the hours of 8.00 am to 8.00pm on Monday to Friday, and 8.00am to 4.00pm Saturday, or on Sundays or public holidays, unless otherwise agreed in writing with the planning authority.
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9. Prior to the commencement of development, a Construction Management and Delivery Plan for the development shall be agreed in writing with the planning authority. This shall address noise, dust, vibration, wheel washing facilities, and specific waste management provisions relating to site clearance, demolition, refurbishment, and construction activities.

Reason: In the interests of public safety, residential amenity, and sustainable waste management.

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Des Johnson

Planning Inspector

19th March 2024.

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.