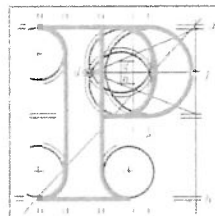


Our Case Number: ACP-323996-26

Your Reference: Eddie Cagney and Ann Roche - Cagney



An
Coimisiún
Pleanála

J. & N. Murphy Ltd.
c/o Nial Murphy
Macroom
Co. Cork

Date: 13 February 2026

Re: Proposed development N70 Waterville to Ballybrack Road Improvement Scheme
Townlands of Waterville, Ballybrack and Eightercua, Co. Kerry

Dear Sir / Madam,

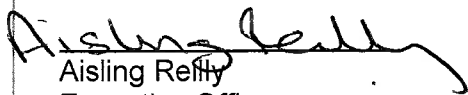
An Coimisiún Pleanála has received your recent submission in relation to the above mentioned proposed development and will take it into consideration in its determination of the matter.

Please note that the proposed development shall not be carried out unless the Commission has approved it with or without modifications.

If you have any queries in relation to the matter please contact the undersigned officer of the Commission at laps@pleanala.ie

Please quote the above mentioned An Coimisiún Pleanála reference number in any correspondence or telephone contact with the Commission.

Yours faithfully,


Aisling Reilly
Executive Officer
Direct Line: 01-8737131

AA02

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
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64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

J. & N. Murphy Ltd.

Consultant Civil & Structural Engineers

Tel: 086 2560273

email: reception@jnm.ie

Macroom,
Co. Cork

10th February 2026

Secretary,
Local Appointments Projects Section,
An Coimisiún Pleanála,
64 Marlborough Street,
Dublin 1
D01 V902

Re: Application of Kerry Council for Consent for Proposed Development (N70 Waterville to Ballybrack Road Improvement Scheme) – Our Clients Eddie Cagney and Ann Roche-Cagney, 6 Benjamin Close, Ballybrack, Waterville, Co. Kerry

Dear Secretary

We refer to the above.

As can be seen, given the above information, our clients own and reside in a dwelling immediately adjacent to this proposed Development.

While accepting the need, in principle, for improvements on this road, they are most concerned about the effects of the proposal as currently laid out in the various documentation published by the Council, and accordingly, with some reluctance, have requested us to lodge this submission on their behalf.

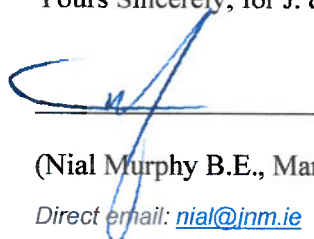
We should say that we have been similarly instructed to lodge an objection on their behalf to this confirmation and to the corresponding CPO in respect of this same development, by both our above-named Clients and separately by the immediate neighbours in No. 5 and we are doing same, all under separate covers. There is much similarity, and indeed much direct duplication, in the documentation as lodged by the Council in respect of both processes (Planning and CPO). There will also, of necessity, be a duplication of effort when An Coimisiún are considering the issue, and, in our own case, we researched the position as one consideration of the entire proposal, and have prepared a single document for each of our Clients (copy of "Cagney" document attached) setting out the difficulties that our clients have with the proposal. While both versions of this document are very similar, they are not identical, and our different clients have some different issues, particularly in regards to temporary & accommodation works.

This single document has, in general, common applicability to both processes (Planning & CPO), but we would, in respect of the Planning Consent submission which is the subject of this letter, draw particular attention to Section 1 (Background & Context), Section 3 (Level Issues), Section 4 (Historic Drainage Issues), Section 5 (Drainage Issues now Arising), Section 6 (New Boundary Structure) and Section 8 (Impact of Construction Works) as being particularly relevant to Planning Issues, and we accordingly would ask that an Coimisiún particularly take these into Account when deciding on the Planning Issues.

The carrying out of these works will have a significant negative effect on our clients. While they recognise that the works are, overall, beneficial to the community, they would ask that their rights and position be protected in relation to issues such as drainage, boundary treatment & accommodation works.

We will await hearing

Yours Sincerely, for J. & N. Murphy Ltd.,



(Nial Murphy B.E., Managing Director)
Direct email: nial@jnm.ie

AN COIMISIÚN PLEANÁLA	
LDG- _____	
ACP- _____	
11 FEB 2026	
Fee: € _____	Type: _____
Time: 9:15	By: Post

PROPOSED N70 WATERVILLE TO BALLYBRACK ROAD IMPROVEMENT SCHEME

Submission made on Behalf of Eddie
Cagney & Ann Roche-Cagney,
6 Benjamin Close, Ballybrack



Prepared by

J & N Murphy Ltd., Macroom.

February 2026

Contents

1. Background & Context
2. Loss of Land and Amenity:
3. Level Issues
4. Drainage Issues – Historic:
5. Drainage – Additional Issues now Arising:
6. New Boundary Structure:
7. Other Accommodation & Temporary Works
8. Impact of Construction Activities:

1.0: Background & Context:

Eddie Cagney & Ann Roche-Cagney have owned this house since c. 2017 when the title passed to them from Eddie's Cousin Enda who purchased the dwelling from the original developer in 2005.

Since retirement in recent years, Eddie and Ann, along with their daughter Jill, have increasingly made this property their principal residence, and they now spend more time there than in Cork, and Eddie has taken on a number of part-time positions locally.

However, ever since the initial construction, they have endured ongoing difficulties with Surface Water, with their land taking in water in part from the higher adjoining public road, but also, and in greater volume, from the very unsatisfactory surface water regime on the private development known as "Benjamin Close". A significant difficulty is that their site is the lowest of the development, and accepts a disproportionate volume of water, with no satisfactory method of disposal of same, causing much of their site to become waterlogged.

That surface Water Regime is not in compliance with that shown on the original Planning Application, (and, as will be shown later, could never have been) but the Council have taken no steps to protect our clients' interest in that regard, whether by enforcement or by taken the opportunity to "call in" the relevant Bond.

The development as now proposed will exacerbate the position even further, subtracting the lowest area of their site and so "diverting" the ponding water to adjoining parts of the site, while at the same time reducing the very limited options for run-off from the site.

In addition, the proposed boundary treatment is, at the very least, unclear, and apparently inadequate, and there is no provision for any of the Site works that will be required consequential on the set-back of the boundary, nor indeed any spatial allowance for the new boundary itself.

They will also lose a significant strip of land, and some of their very elaborate (and expensive) Landscaping works, particularly those providing a visual screen to and from the N70 are almost certain to be significantly impacted.

They understand the motive behind the proposed scheme, and do not, in principle, object to same. Therefore while they have significant reservations, there are steps outlined herein, many of them simple, that could be taken to ameliorate our clients' position, and which, if included, might make the proposal overall acceptable, but the proposal as it stands, despite its apparent "big picture" comprehensiveness, is lacking in granular detail and does not take into account our clients' difficulties, and is unacceptable in its current format.

This document develops and expands on these issues.

2.0: Loss Of Land and Amenity:

This issue will have the most immediate impact on our clients.

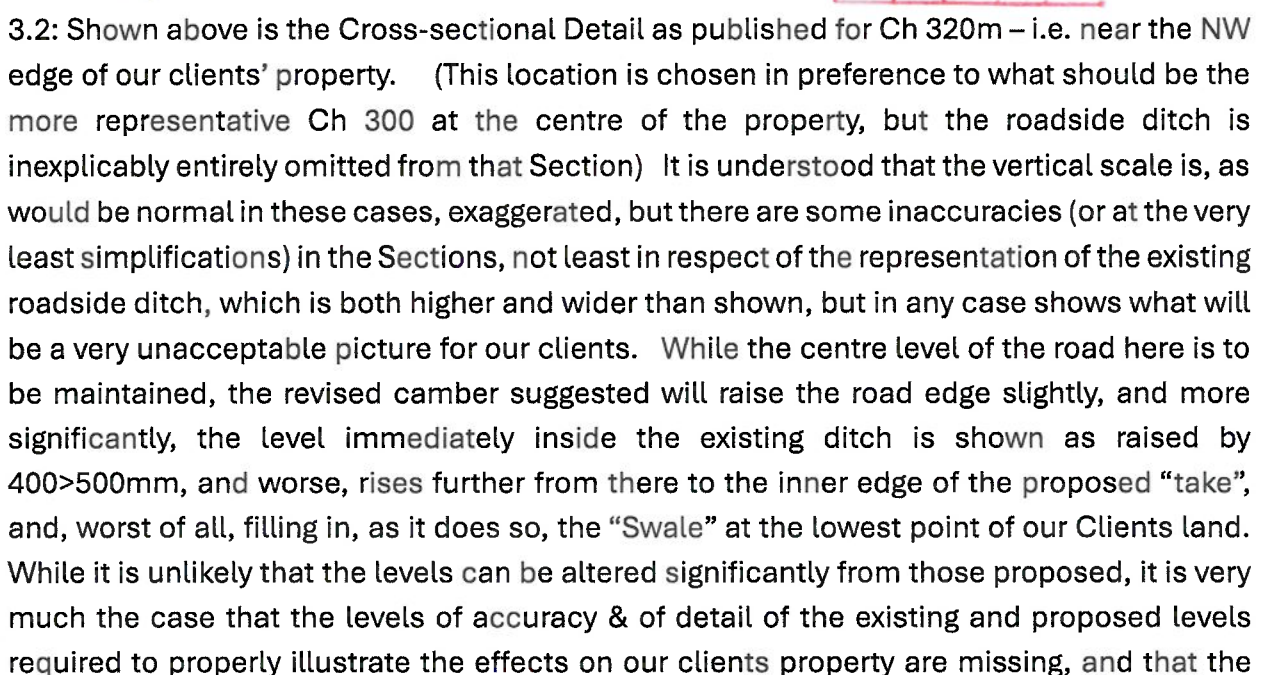
2.1: There will be the obvious (c. 3% or c. 160m²) loss of overall site area, but when the loss of lawn area after allowing for the dwelling itself and the screen planning, the loss of actual lawn area, while numerally still c. 160m², will mean c. 6% reduction in lawn area. It will also “open up” the site to the road, and it will take many years for any “new” screening provided to begin to match the old.

2.2: In addition, there is a distinct lack of clarity and exactness in regard to the precise extent of the “take” suggested –

- the maps are not as definitive as they might seem – the precise computer-drawn lines on the CPO maps are presumably accurate but are, to scale, almost 1 m wide – is the boundary on the inner or outer edges or the centreline of this 1m width? Is the new roadside boundary to be constructed within the “take”? (it would appear that there is insufficient provision for same).
- There is a distinct “twist” shown on the Northern end of the boundary between 130-01 & T130-01 - see enlargement on Right - is it intended that there would be a matching physical Twist?
- It is noted that, measured on the ground, the roadside face to roadside face of our clients’ roadside stone wall/ditch is c. 2.1 m nearer the road than the cut-stone wall fronting his neighbour’s site to the North. However, with a 50m road frontage, a rectangle of 156m² (Area from CPO schedule) would have a depth of c. 3.1m.
- Given the last 2 points, are we correct in assuming that our clients’ lawn would, post works, be shallower than that of the Neighbour to the North?
- As a further complication, the 130-01/130-02 boundary, which on the face of it, should coincide with the existing roadside boundary, has an unexplained kink near the Southern end – see detail on Right. This kink does not exist on the ground, nor is it reflected in either your Engineers’ detailed surveys or the OSI maps. What if anything, is its significance??
- Given all of the above, what would in any case be a not-unreasonable expectation that the proposed land take would be physically pegged now becomes an essential exercise, and we would request that this be done urgently.



3.1: The extent of work to be done to the effect the proposed new roadway and cycle lane is, we would say, and as will be discussed later, somewhat played down in the published documentation. However, it does appear that the “new” finished road level will vary little from the existing particularly in the immediate vicinity of our Clients’ property. Nonetheless, detailed examination brings to light some concerning issues.

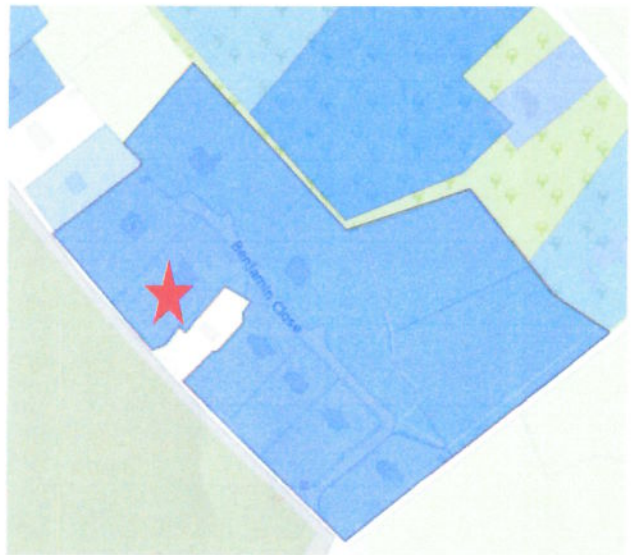


reality of the detrimental effect of the alteration of relationship between our the levels of clients' lawn and the road is not fully illustrated.

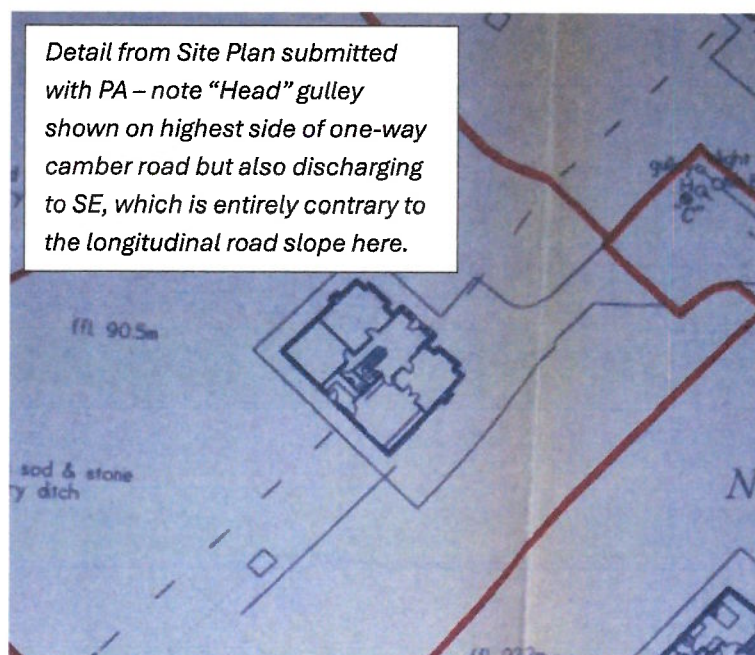
3.3: What is however very obvious from the proposed section is that the section of our clients lawn near to the road slopes significantly towards the road, and that the proposed "take" removes the lowest end of that slope. The soakage/percolation here is poor, and the surface water drainage opportunities very limited. For further discussion on this, see "Drainage Issues" below.

4.0: Drainage Issues - Historic:

4.1: Our clients' dwelling is one of those in, or at least accessed from, "Benjamin Close" – see extract from Planning Register Map on site with our clients' plot highlighted. Note that all vehicular access to all of them is from the site road, despite 6 of them abutting the N70. The houses were initially built pre-2000, and initially had individual Septic Tanks, one per house. In more recent years, a public sewer was laid on the public road, and the houses adjacent to same, including our clients' dwelling, were connected individually to new sewer.



In the case of our clients, this was done by retaining the primary chamber of the tank & using

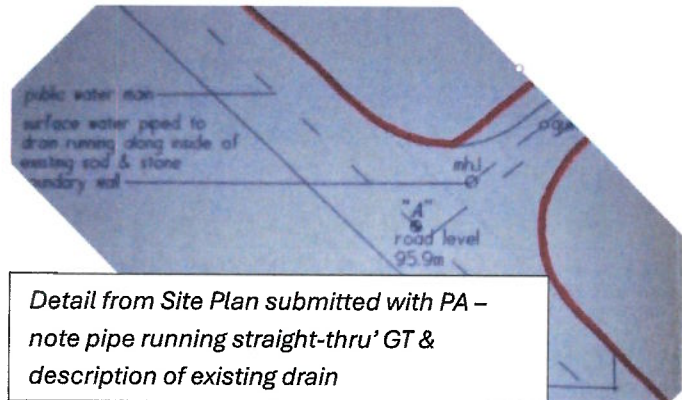


the second chamber as a pump sump from which the partially-treated effluent is pumped to the sewer (the level of the new sewer was too low to allow a gravity connection). This arrangement has provided an entirely satisfactory foul sewage regime for the site, with the only point of note being that there is an access point on the outfall sewer crosses the strip to be CPO'd, and this may need to be adjusted/relocated.

4.2: The surface water situation on the site generally is entirely

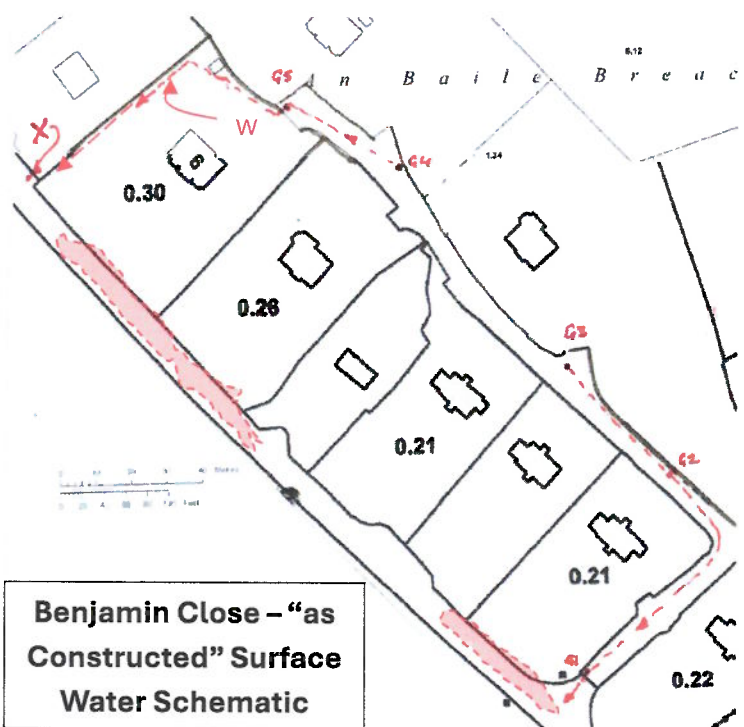
unsatisfactory. This arises as an inescapable result of the installation (with Council oversight/approval which was incomplete, to say the least) of what can only be described as an entirely defective system, both in terms of design and execution.

4.3: The Plans on foot of which the initial Planning (485/97) as Granted were, to put it mildly, very basic, even by the standards of the time. The surface water disposal for the individual sites was hardly mentioned, and the road drainage detail, consisted of some GTs connected to a very basic pipe, and discharging linearly one to the other



(with some shown as very basic gulley to gulley “straight-thru’ connections), starting at the Northern (inner) end, eventually discharging at the abutment of the site road with the N70 to what was described as “*drain running along inside of existing sod & stone boundary wall*”. Apart from the pipework arrangement being entirely substandard, and depending on a very effectively non-existent discharge point, this arrangement was patently unworkable on the particular site, as the gradient from what was shown as the highest manhole or gully (outside site 6) was entirely against the natural slope, with, were it to be installed as shown, a dig of up to 7m thru solid rock being required!! (The Road Level at G3 is c. 7m higher than at G5) (see Plan on Right).

4.4: What was actually installed was two separate SW systems, both substandard & both discharging to the same non-existent drain – an outline of this arrangement, involving some assumptions/guesses, but easily accurate enough to illustrate the principles is shown on right. It shows 5 Gullies in total, 3 discharging towards the entrance, starting from G3 at the high point, and G4 & G5 discharging along our clients’ North-Western boundary via a recently partially-discovered pipe, but eventually reaching the roadside boundary thru’ a combination of pipes, stone drains and surface flow. In reality, as all the Gullies bar G5 are located on the highest side of a one-way camber, the Gullies are ineffective, and all of the water discharges onto to the original public road near





G1, or into our clients' site via G5 or the grating across their entrance (Pictured Left) which they installed themselves 3 to 4 years ago in an effort to protect their site, but which proved largely ineffective – it does "catch" some water, but this merely then flows into the same onsite network that it would eventually have reached anyway, and so in any case ends up at the North Western corner of their site. The "Bottom line" is that in even moderate rain, water ponds along the roadside boundary of their lawn, which is the lowest point, creating an unintended swale or sump of sorts which runs along the joint road frontage, but which most particularly affects our clients

and their immediate neighbours to the South East, as these two houses are, given the general Northward slope, the lowest of the lawns, and the position is further exacerbated by the fact that the level of the lawn of No. 6 is up to 500mm under the existing public road level.

(It does appear that there may have been some intention that the pipe installed along their North-Western boundary may have been intended to reach an adjacent pipe at Point "X" on the plan on the previous page, but that pipe is, firstly, effectively level with the pipe at point "W" on the same Plan, but also is of dubious capacity in itself - there is an exposed "Corripipe" drain here with the end visible down a rudimentary, and probably accidental, hole – see photo on Right showing tape projecting into hole.

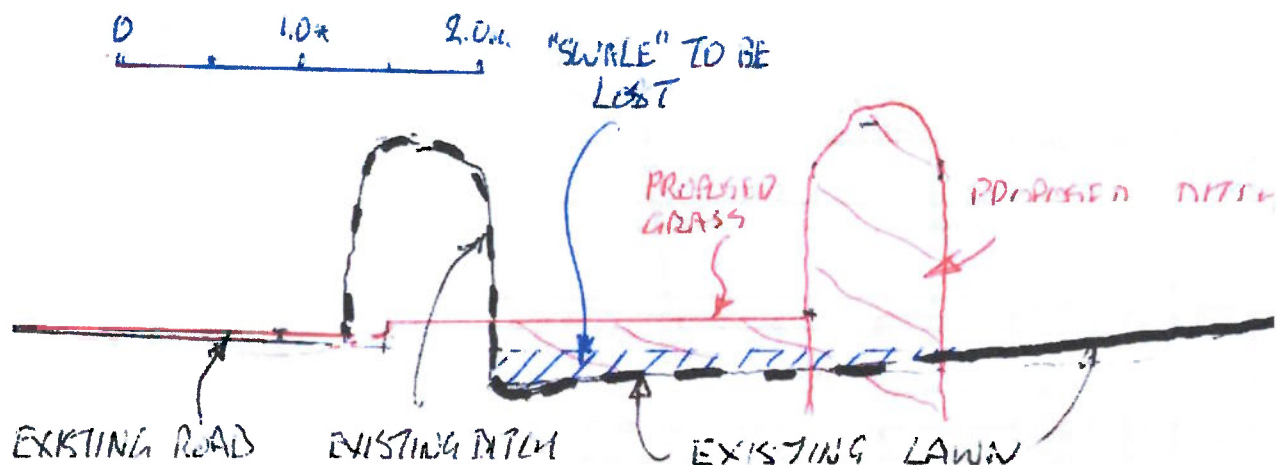


It appears that this pipe was laid as part of the Roadside setback works for the adjacent site, but it is entirely unclear what discharges to it, or where it discharges to, or even what direction it flows in (it probably falls with the road towards Waterville), but there is no confirmation of this). In addition, the pipe base is only c. 650 under road level, and, as already noted, at best level with the pipe supposedly flowing to it from Point "W" It also appears to be surrounded by less-than-ideal bedding & haunching. All in all, and for whatever reason, is it not taking any water, and instead the water "wells up" to spread along the unintended swale.

4.5: Despite the impossibility of compliance with the original drawings, the Council ignored (or did not see) this issue, both in this case and the case of 97/1390, an application for revised house plans, and while they did impose a bond requirement, and despite confirmation of this in a number of documents on file, they appear to have left the bond wither, and have left the homeowners here neither high nor dry.

5.0: Drainage – Additional Issues now Arising:

5.1: Now, to make matters worse, the same Council are proposing a road scheme that will, at once, at least potentially slightly increase the total inflow from the road into their site, but also will infill the bulk of the lowest part of their lawn, thus infilling the swale or sump described above. The Diagram below is approximately 1:50 Scale, but in any case illustrates the main issue (i.e. what is to become of the swale?) quite well. The existing road, ditch & lawn levels are shown in Black, with the new proposals in Red



5.2: Also shown is a possible “Proposed Ditch” – the need for this to be a traditional stone wall and the need to allocate sufficient space for same is separately discussed, but the question of structural stability also arises, as the wall will, to at least a limited extent, be required to act as a retaining wall.

Critically, note the identification in Blue of a “Swale” to be lost. This is as described in 4.4 above, and intentionally or otherwise, forms the essential element of the existing, albeit poor, Surface Water “disposal” regime. If this is lost, and if complete waterlogging of much of our clients’ Lawn, not to mention interference with the drainage from the entire of the site, **an alternative must be found**

5.3: All-in-all, it would seem that the only satisfactory solution here would be to ensure that the main C drain proposed under the new road would be 1m+ clear of the surface (good or normal practise anyway?), and provide connections from this into all of the sites adjoining the N70, but most particularly into our clients’ site, as it is here that much of the overall Benjamin Close surface water gathers.

6.0: New Boundary Structure:

6.1: The existing roadside boundary structure is a stone & slightly sodded construction. Our Clients have, over the years, cleaned it down and made it a feature of their garden – see below. They have also, but less diligently due to the difficulty of working safely on the roadside, kept the external face clean and in good condition.



They would require that any replacement wall be of similar construction – not just the standard stone-faced blockwork. This is in part to maintain the character of their boundary, but is also in recognition of the heritage of the area, and with particular reference to the Megalithic Monument known as the Eightercua Stone Row, which is situated less than 400m. away.



**Photos showing
Eightercua Stone
Row**

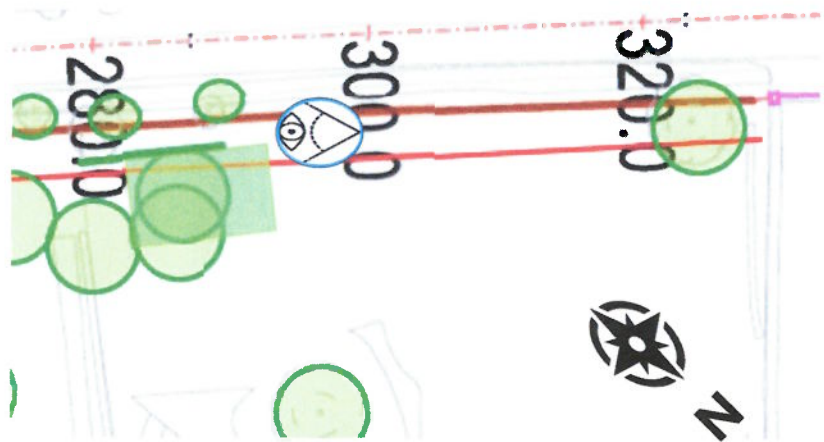


6.2: Also, the existing ditch, while shown on the sections as only 600 mm high, is actually 1000 > 1400 over the road level. Our Clients would require that any replacement be 1400 high. This would more closely reflect the existing position, but the increased pedestrian & cycle traffic that will result from the proposal is also a factor to be taken into account.

6.3: As illustrated in the Section at 5.1 above, the thickness of such a wall will also be a factor in determining the exact land take required, and the Council may need to put some further thought into this.

7.0: Other Accomodation & Temporary Works:

7.1: The Plan on Right shows the main trees in the Lawn of #6, along with, in Green on the Left (SE) end of the frontage a compost area screened by trees but with access from the walled side nearest the road. Also Shown as the innermost (furthest from road) Red line,



is the approximate boundary of the “temporary” plot intended to be acquired for the duration of the works.

The New Ditch and infill resulting from the above are illustrated approximately in red on the photo overleaf (Photo viewpoint shown approximated in Blue above)

The potential difficulty of access the “loading” side (blue arrow) of the compost area can clearly be seen, but in passing, it is worth noting the obvious



Elevation of the car on the road

relative to the much lower level of the lawn, and the almost total obliteration of existence of the “swale” (as demonstrated by the ponded water) can clearly be seen.

7.2: Some questions arise, all of which are probably very minor matters when looked at from the Council side, but which are very important to our clients:

- Will there be a physical boundary erected (temporarily) on this innermost line? (Note that it would travel thru’ the compost area).
- If so, what is the nature of that boundary?
- Will the lone tree on the Right (NW) of the frontage survive the works? (it would appear that, while its centre point is 1m+ clear of the new wall, much trimming back and

damage to root ball will be unavoidable). However, were the new wall to be a genuine sod & stone wall, the need for a conventional foundation might be avoided??

- Will there be sufficient access to the compost heap after the erection of the new roadside boundary? It would seem, realistically, that there will be less than 1m gap here, making it unworkable – if so a new, landscaped, replacement will be required
- What will the duration of the works be?
- Who will own the new roadside ditch? Who will maintain it?
- Will all removed trees/shrubs be replaced like-for-like? Will any new planting be replaced if it fails?



Google Street Views from 2022 (top) and 2011 (bottom) Note that it has taken 11 years for the trees near the roadside to mature. Fortunately these are not actually on the roadside, and it is to be hoped therefore that they can be retained. However, retention of access to the Compost Heap may present a problem



8.0: Impact of Construction Activities:

8.1: In a number of instances in the copious, if repetitive, documentation as published by the Council, there seems to be a tendency to “play down” the extent of the physical work and the problems arising therefrom, and to concentrate rather on the bigger, longer term picture. In fact, it is a relatively major construction project, which is likely to impact significantly on our clients to a greater extent than implied in that Documentation.

8.2: This is nowhere more evident than in the "Dust Management Plan", where the project is described as, for instance, involving "*Excavation and/or fill of route realignment although most of the works relate to levelling of existing surface*". In fact, the new construction is, in total over 15m wide, or double the typical existing carriageway, and while the plans are silent on the extent of excavation/fill required, it is safe to assume that at an absolute minimum average of 750 mm of capping & subbase material will be required. It will be more in places, and less where the existing road subbase will be adjusted adequate (which will not by any means be everywhere), and slightly less under the Cycle path and grass generally (but even here, there are excavation/fill depths of 1m+ in excess of these figures, particularly at the lower chainages in the vicinity of our clients' dwelling).

8.3: A more accurate indication of the extent of disturbance is given in 6.1.1 of the NIS, where it states that "*habitat areas to be removed include areas of mixed broadleaf woodland (c. 2,950m²), scrub (2,850m²), wet Grassland (c. 2420m²) c.110000=, agricultural grassland (c.720m²), amenity grassland (c. 1,720m²) and approx. 320m of hedgerow*". Allowing 1m width for the hedgerow, this totals to 11,000m², or, on a total of 1360m linear length, over 8 m width per m of road. Even this does not give the full figure, as it does not take into account existing surfaced areas, all of which will, as noted above, require work, but it does give a truer picture.

8.4: All in all, given a total of 1360m length, and an average width of 15m, and a conservative 750mm average from formation to finished surface, there could easily be in excess of 15,000 cu. m., or 30,000 tonne, of material to be removed and imported. Even with a 33% allowance for re-use of excavated material, that still 50,000 tonne of import/export material, and in any case, all 60,000 tonne will have to be handled on site. In fact, from a nuisance (dust/noise/traffic) point of view, the re-used material will have to be loaded and unloaded on site, thus actually increasing, not decreasing, the nuisance potential. At 20+tonne/ truck this (60,000 tonne) represents c.2500 trucks. This, in situation where the existing HGV traffic is approx. 115/ day (ref 8.3.2 of PECR), and the suggested peak construction traffic-related load of 6 HGVs/hr (ref 8.4.1 of PECR) is heading for a 50% increase on this.

8.5: As described above we would submit that at least some of the thrust of the documentation tends to play down the quantum of construction nuisance, there is a more significant issue in relation to which some of the documentation is directly misleading and which directly affects our clients.. There is reference to there being 15 houses proximate to the works (Ref Sect 5 of Dust Management Plan (DMP)). Our Clients reside in one of these, and on the face of it, the specific recognition of their position is or should be reassuring. However, in reality, the overall DMP contains only boilerplate text appropriate to a most normal construction site which would have a roughly rectilinear shape with a single side abutting a public road with one or at most two discreet specific entry/ exit points. This site, on the other hand, is effectively the existing road, and will, realistically have multiple random entry/exit points, and little or no opportunity for wheel washes, and even were there wheel

washes, the lorries travelling to them could, at maximum, be only single-figure meters removed from the existing road. In fact, there will be considerable works immediately at our clients boundary - See Extract from PECR (para. 8.4.1) reproduced below:

General Road Construction – this includes the road widening and construction of the proposed cycleway. Excavation and removal of material is required to construct the proposed improvements. Imported stone and acceptable material will be placed as excavation proceeds. This work will be mainly carried out off-line but will require interface with N70 traffic for access and egress. Where excavation is required nearer the existing road, lane closures will be required. • Pavement Works – As construction nears the required level, specialist equipment is required to place stone and bituminous bound materials to the appropriate standard. This will be carried out exclusively on the road surface and will require a lane closure.

8.6: In addition to the generalisations above, there is, directly across from our clients, a mass of high ground to be removed. This is the area of the greatest excavation and therefore of great dust potential. It also appears that it is containing, if not entirely composed of, solid rock, making the position worse.