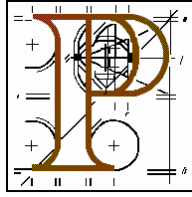


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2010

Cork County

Planning Register Reference Number: 11/00039

An Bord Pleanála Reference Number: PL 04.238846

APPEAL by Helen Connolly and others of Gortroe, Bantry County Cork against the decision made on the 4th day of April, 2011 by Cork County Council to grant permission to Richard and Jackie Brennan care of Richard Brennan of Gortroe, Bantry, County Cork for development comprising retention of detached boiler house/store (constructed in lieu of domestic garage granted under planning register reference number 04/7187) and planning permission for the following: (a) one number velux roof light to front elevation of existing dwellinghouse, (b) alteration of site boundaries, (c) detached dwellinghouse for use ancillary to existing dwelling, (d) a detached building incorporating a swimming pool, gym and plant room for domestic use and (e) one number 20 metre domestic wind turbine, all at Gortroe, Bantry, County Cork in accordance with the plans and particulars lodged with the said Council.

DECISION

GRANT permission for the said retention of the detached boiler house/store, one number velux roof light to front elevation of existing dwellinghouse, alteration of site boundaries and one number 20 metre domestic wind turbine in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for the said detached dwellinghouse for use ancillary to existing dwelling and detached building incorporating a swimming pool, gym and plant room for domestic use based on the reasons and considerations marked (2) under.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS (1)

Having regard to the domestic nature, scale and design of the proposed development and the development for retention, the site location and landscape context, the pattern of development in the vicinity and the separation distance from nearby residential properties, 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 or of properties in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out, completed and retained in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 11th day of March, 2011 and by the plans and particulars received by An Bord Pleanála on the 27th day of May, 2011, 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, completed and retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed ancillary dwellinghouse shall be omitted in its entirety.

Reason: In the interest of clarity and to safeguard the amenities of the area.

3. Noise levels from the wind turbine shall not exceed 43 dB(A) during normal operation, or in excess of 5 dB(A) above the normal background noise, whichever is greater, as measured from the nearest neighbouring inhabited dwelling. All sound measurements shall be carried out in accordance with ISO Recommendations R1996, "Assessment of Noise with Respect to Community Response" as amended by ISO Recommendations R1996/1, 2 and 3, "Description and Measurement of Environmental Noise", as appropriate.

Reason: To protect the amenities of properties in the vicinity of the site.

4. If the turbine ceases operation for a period of more than six months, the mast and turbine shall be removed.

Reason: In the interest of visual amenity and to ensure satisfactory decommissioning upon cessation of use of the turbine.

5. 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.

REASONS AND CONSIDERATIONS (2)

1. Having regard to the restricted size of the site, it is considered that the development of a detached ancillary dwelling would constitute overdevelopment of the site and would seriously injure the amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the surface water drainage for the proposed pool in close proximity to the percolation area for the dwellinghouse, the Board is not satisfied that the proposed development would not be prejudicial to public health. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission for the pool building proposal, the Board was not satisfied that the disposal of surface water from the pool would not interfere with the disposal of effluent in the percolation area.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2011.