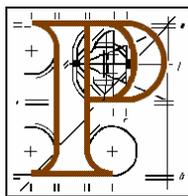


An Bord Pleanála



Inspector's Report

An Bord Pleanála Ref.:	PL. 04.239455
Development:	Site development works for three serviced sites for detached houses with garages.
Location:	Lower Aghada, Co Cork.
Planning Application	
Planning Authority:	Cork County Council.
Planning Authority Reg. Ref.:	10/08627
Applicant:	Paul Creedon.
Type of Application:	Permission.
Planning Authority Decision:	Grant permission with conditions.
Planning Appeal	
Appellants:	Residents of Siddons Court
Type of Appeals:	3rd Party v Grant
Observer:	None
Date of Site Inspection:	24 th November 2011.
Inspector:	Bríd Maxwell.

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site, which has a stated overall area of .23 hectares, is located on a hillside in Aghada Lower circa 80 metres to the south of Aghada Pier on the south east coast of County Cork. Access to the site is off a local road which to the south of the Aghada Whitegate Regional road R630. The site was formerly occupied by a dwelling and is adjoined to the south by Siddon's Court a residential development of two storey terraced dwellings. The site rises in a south-easterly direction and enjoys views over the harbour to the north. The submitted layout shows variation in site level from 12.5m towards the north-western extremity at site frontage to 17.9m at the south-eastern extremity of the site. This southern site boundary is defined by a retaining wall which imposes significantly on the appeal site and which forms the boundary of rear gardens of the Siddon's Court dwellinghouses. A group of terraced dwellings on lower ground level back onto the site to the north and a dwelling site adjoins to the east.
- 1.2 Photographs of the appeal site and vicinity are attached as appendices to the appeal.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development as described in public notices seeks permission for the site development works for 3 no serviced sites for detached dwellinghouses with garages. It is proposed that the dwellings will be serviced by way of connection to an existing wastewater treatment plant and storm sewer serving the adjacent Brompton Homes development. The proposal involves the provision of a site entrance approximately centrally along the site frontage with access road serving the three sites running in an east west direction adjacent to the northern site boundary. The design brief which was submitted in response to the request for additional information outlines that the architectural detail of the three dwellings will be contemporary but will acknowledge the local area traditional design of one and a half storey dwellings,

3.0 DEVELOPMENT PLAN CONTEXT

- 3.1 The Cork County Development Plan 2009 and Midleton Electoral Area Local Area Plan 2011 apply. The R630 at Aghada is a designated scenic route. The site is within the development boundary for Whitegate / Aghada 1.
- 3.2 In the overall Local Area Plan it is outlined that the Planning policy for Whitegate /Aghada seeks to reinforce the strategic industrial role of the settlement whilst making provision for a limited amount of growth in housing at a scale to meet mainly local requirements.
- 3.3 At Para 5.4.2 it is stated that "It is envisaged that the settlement should grow by an additional 190 units. which is consistent with the policy to limit housing development. It is considered that the bulk of this housing will be provided around the existing housing and community facilities available at Upper Aghada."

- 3.4 The site is approximately 70metres to the south of the shoreline of the Cork Harbour Area. There are a number of Natura 2000 sites located here including. Cork Harbour a designated Special Protection Area Site Code 004030. Great Island Channel SAC (Site Code 001058), Rostellan Lough, Aghada Shore and Poul nabibe Inlet pNHA Site Code 001076. Whitegate Bay pNHA (Sitecode 001084)
- 3.5 Cork harbour is also a RAMSAR site, Wetland of International Importance and an Important Bird Area IBA.
- 3.6 There are a number of designated Shellfish Areas in the Harbour including Rostellan West, Rostellan South and Rostellan North. Designated sites are subject to protection or improvement under the Shellfish Waters Directive 2006/113/EC. The Directive is implemented in Ireland by the European Communities (Quality of Shellfish Waters) Regulations 2006 (S.I.No. 268 of 2006) as amended.

4.0 NATIONAL POLICY

4.1 Sustainable Residential Development in Urban Areas May 2009

- 4.1.1 The Sustainable Residential Development in Urban Areas Guidelines encourage high quality sustainable residential development, urban form and design. They are concerned to promote a sequential approach to development and to create an overall design framework with linkages to the existing developed area. They support Local Area Plans and the phasing of development, also having regard to the availability of infrastructure. Regard is had to the availability of community facilities, public transport and the quality of open space. Chapter 3 concerns the role of design. Chapter 4 provides for planning for sustainable neighbourhoods. Chapter 6 refers to growth in small towns and villages, which it defines as 400 to 5,000 persons and provides that higher densities are appropriate in certain locations.
- 4.1.2 Key advice in relation to smaller towns and villages is provided at 6.3 including the following:
 Development in smaller towns and villages must be plan led
 New development should contribute to compact towns and villages.
 Higher densities are appropriate in certain locations
 Offering alternatives to urban generated housing.
 Scale of new residential schemes for development should be in proportion to the pattern and grain of existing development. “for villages of under 400 in population, the typical pattern and grain of existing development suggests that any individual scheme or new housing should not be larger than about 10-12 units due to an absence of a sufficiently developed local infrastructure such as schools and community facilities to cater for development.”
- 4.1.3 Chapter 7 deals with the home and it’s setting and discusses issues such as daylight, sunlight, privacy, open space and communal facilities.

Regard is had to the accompanying DOEHLG 'Urban Design Manual-A best practice guide 2009' and to the 12 criteria to promote quality sustainable urban design discussed in this document. Regard is also had to the application of these criteria, which are divided into three sections: Neighbourhood, Housing Site and Home.

5.0 PLANNING HISTORY

- 05-2581 Paul Creedon. Permission granted for the demolition of the dwelling and construction of 8 no dwellings.

6.0 PLANNING AUTHORITY'S DELIBERATIONS AND DECISION

6.1 Submissions to the Planning Authority

- Third party submission by the appellants to the Council object on grounds of overlooking, overshadowing, devaluation of existing dwellings in Siddon's Court. Inadequate public open space. Drawings inadequate. Adequacy of sewage treatment system and water supply is questioned.

6.2 Interdepartmental Reports

- Area Engineer's report asserts that proposed sewage proposal is acceptable as permission and capacity was already given under 05/2581. No objection.
- Environment report notes that the Wastewater treatment plant operated by Brompton Homes is potentially subject to licensing under section 4 or 16 of the water pollution act and the wastewater section of the Environment Directorate will be following up on this issue in the future. Main environmental concern would be if there were discharge of untreated effluent to the designated shellfish waters in Cork Harbour. No objection subject to conditions.
- Initial Planner's report recommended that application be deferred for a Natura Impact Statement and design brief for the sites.
- A request for additional information issued seeking a number of items including a Natural Impact Statement, design statement and design brief and clarification of the number of existing and permitted developments which are connected to the Brompton Homes Wastewater treatment plant.
- Area Planner's report following further information submission indicates that the Natura Impact Statement is acceptable. Permission recommended subject to conditions.
- Senior Executive Planner's report endorses the area planner's recommendation.

6.3 Decision

- 6.3.1 Cork County Council issued its notification of decision to grant permission dated 28th July 2011 subject to 41 conditions. Apart from standard conditions the following are noted:

- Condition 2 Dwellings on each site shall be of traditional design reflecting traditional principle of scale proportion detail and finish.
- Condition 4. Subsequent permission shall be subject to development Contribution in accordance with the Development Contribution Scheme.
- Condition 7. No dwelling shall be occupied until site development works installed and functioning to the satisfaction of the planning authority.
- Condition 9. Sight distance of 50m to the east and 50m to the west to be provided at centre point of entrance.
- Condition 24. Cross and longitudinal sections showing details of existing and proposed ground levels and finished floor level relative to ridge levels of adjoining houses and spot level on road to be submitted to the Planning Authority at permission stage.
- Condition 28. All mitigation measures listed in Section 3 of the Dixon Brosnan Environmental Consultants Appropriate Assessment report submitted on 6.7.2011 shall be implemented in full during construction and operational stages of the development.

7.0 GROUNDS OF APPEAL

7.1 Third Party Appeal.

7.1.1 The third party appeal is submitted by a number of the Residents of Siddon's Court. The grounds of appeal are summarised as follows:

- 50 metre sightlines not adequate for a 50kph road. Not in accordance with the requirements of NRA-TD 41/42/09 which require a 70metre sightline for a 50kph road. Southern approach to the site is a steep descent and speeds of more than 40kph can be attained. A sightline of at least 70m would at least be required.
- According to Draft Midleton Electoral Area Local Area Plan Nov 2010, the Whitgate Regional Water Supply Scheme is operating at full capacity and the interlinked Cloyne / Aghada scheme is operating close to full capacity. Significant water users in the Whitegate area.
- Block retaining wall of 2 metres is proposed for the southern boundary of the site. This may have structural implications for the retaining walls of the existing development at Siddon's Court.
- Proposed retaining walls for site 1 and site 2 effectively sterilises from use a substantial portion of the rear gardens of the proposed houses thus reducing residential quality of the development.
- Design of dwellings unclear giving rise to difficulties in consideration of the impact on privacy of residents of Siddon's Court

8.0 RESPONSES TO THE APPEALS

8.1 Planning Authority Response to the Appeal

- 8.1.1 The Planning Authority's response to the appeal asserts that the technical reports on file cover all the issues raised in the appeal and request that An Bord Pleanála uphold the decision to grant permission.

8.2 First Party Response to Third Party Appeal.

- 8.2.1 The response submission by J K Design on behalf of the First Party Mr Paul Creedon is summarised as follows:

- It should be noted that the appeal is by the occupants of only 5 houses in Siddon's Court.
- Refute the grounds of appeal.
- Development now proposed is substantially more modest than previous permission for eight dwellings in two terraces. The planning authority did not uphold a similar objection in its considerations of that proposal.
- Public footpath currently terminates at the site boundary and the extension of the footpath will improve pedestrian safety. Revised illustration of proposed sightlines is provided in portrait layout.
- Given that the planning authority decided to grant permission it was satisfied that the development is in compliance with development plan and the proper planning and sustainable development of the area.
- Retaining wall will be designed and constructed in accordance with building regulations. No structural implications to the existing boundary wall between the site and Siddon's Court.
- Open space is in accordance with residential development guidelines. Will not interfere with residential amenity of the appellants and their property.
- Architectural detail will be contemporary but will acknowledge the local area traditional design of one and a half storey dwellings.
- Detailed design will be subject to the approval of the Planning authority.
- No adverse impact on residential amenity of the appellants and their property.

8.3 Response of Third Party Appellants to First Party Response to the Appeal

- Sightline submitted shows 70m sightline to the south and 50m sightline to the north and is not set out in accordance with TD41-42/09 of the DMRB. Sightline to the south is obstructed by a pole, the stone faced boundary wall of Siddons Court and an Ash Tree located on the site.
- Accept that lands are zoned for residential use.
- Issue of Regional water supply scheme being at full capacity and interlinked Cloyne / Aghada scheme operating close to its full capacity has not been addressed.
- Site proposed for development is restricted with significant fall in ground profile from the rear to the north. Detailed design of the retaining wall should form part of the planning application documentation.
- Photographs submitted shows structural movement of blockwork wall to the rear of the Siddons Court has already occurred.
- Open space is inadequate and design constrained. Space between the retaining wall and boundary wall of Siddons court is effectively sterilised from use.

- House design brief is inadequate and causes difficulties in assessing the implications on established residential amenity.

9.0 ASSESSMENT

9.1 Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider the key issues to be:

- Principle of development. Development Plan Policy.
- Traffic and road safety.
- Services, Wastewater Disposal and Water Supply.
- Appropriate Assessment.

9.2 Principle of Development. Development Plan Policy.

9.2.1 The site is within the development boundary for Whitegate / Aghada as set out in village map within the Midelton Electoral Area Local Area Plan and was previously occupied by a dwelling therefore can be considered as brownfield in nature. The proposal to provide serviced sites for three houses is acceptable in principle by reference to the zoning provisions of the development plan and local area plan and the planning history on the site. As regards the proposed density I consider that the proposal is acceptable given topographical and other constraints of the site. I consider that the proposal will provide an alternative to one off rural housing to meet local need. On issue of visual impact as noted, the R630 at Aghada is a designated scenic route, however notwithstanding the visual prominence of the site, having regard to the established pattern of development in the vicinity, the topography of the area generally I do not consider that the issue of visual impact is a substantive issue in terms of the development of the site. I note Third Parties raise concerns in relation to the design of the future dwellings and potential impact on adjacent Siddons Court. The detailed layout and design of the proposed dwellings will be subject to future permission and the Third Parties will have the opportunity to assess potential impacts at that stage. On the issue of the proposed retaining wall which will not have any impact on residential amenity of Siddons's Court and the wall can be appropriately designed and constructed in accordance with the Building Regulations.

9.3 Traffic and Road Safety

9.3.1 The Third Party appellants assert that the sightlines available at the site entrance are deficient. Revised sightline drawing submitted in response to the appeal demonstrates a sightline of 70m to the south and 50m to the north. Having regard to the location of the site within the existing built up area and on a hill, I would concur with the view of the Planning Authority that the sightline is adequate. I would also agree with the first party that the provision of a footpath along the site frontage will generally improve pedestrian and traffic

safety in the vicinity of the site. I therefore consider that there is no objection to the development on traffic grounds.

9.4 Services Wastewater Treatment and Public Water Supply

- 9.4.1 In 2002 as part of the development of the 25 unit housing estate immediately to the south of the site (Siddon's Court) a sewerage system and storm water drainage system was installed and both constructed under the road at the western entrance to the appeal site and it is proposed to service the three future dwellings by way of connection to this system. The Dixon Brosnan Report submitted in response to the request for additional information outlines that the treatment standard provided is 20 BOD/30 Suspended solids. I consider that the issue of wastewater treatment will be appropriately addressed by way of the discharge license.
- 9.4.2 As regards water supply the Third Party Appellants note that the Midleton Electoral Area Local Area Plan 2011 states that the Whitegate Regional Water Supply is operating at full capacity and the interlinked Cloyne /Aghada Scheme is operating at close to full capacity. The Local Area Plan notes that the need to upgrade the schemes has been identified as a priority (no 144) on the Council's Assessment of Water Services Needs with a start date post 2012. I note that the Local Area Plan makes provision for housing growth of 190 within the overall settlement and in order to secure that level of growth it is outlined that the appropriate sustainable water and waste water infrastructure will have to be provided. I note that the Planning Authority was satisfied that there is sufficient capacity within the existing water supply system to serve the three dwelling sites. Having regard to the foregoing I conclude that servicing issues do not give rise to a reason for refusal.

9.5 Appropriate Assessment.

- 9.5.1 The report entitled "Appropriate assessment for a proposed development at Ard na Mara Lower Aghada, Midleton Co Cork", by Dixon Brosnan environmental Consultants dated 22/5/82011 adopts a step by step methodology as set out in the relevant guidance on Appropriate Assessment. The report asserts that no significant habitat loss will be caused by the proposed development which will not impact directly on the designated sites. Provided that standard mitigation measures are effectively implemented the impact should be low and localised during the construction period. The report concludes that the connection of three extra houses to the existing sewerage treatment system will see a minor increase in the amount discharged and the combined discharge volume will be within the constraints specified in the license. Storm water run-off will utilise the existing storm water system through silt and hydrocarbon interceptors and is not expected to have significant impact. Overall the discharge of wastewater and stormwater from the site is not expected to significantly increase nutrient levels or impact on important qualifying species or habitats.

- 9.5.2 The report finds no evidence to indicate that works will cause significant deterioration of the habitats of the qualifying species and species of special conservation interest or significant disturbance to these species thus ensuring the integrity of the sites are maintained. In the absence of further major developments no significant cumulative impacts are expected to occur. No significant indirect impacts are envisaged. I would accept the findings of the report that on the basis that no significant impacts on designated sites are envisaged, a stage 2 appropriate assessment is not necessary.

10.0 CONCLUSION & RECOMMENDATION

- 10.1 Having considered the contents of this application in detail, the decision of the planning authority, the planning history on the site, the provisions of the Cork County development Plan 2009 and Midleton Electoral Area Local Area Plan 2011, the national guidelines, the grounds of appeal, my site inspection and my assessment of the planning issues, I consider it appropriate to recommend to the Board that permission be granted/

REASONS AND CONSIDERATIONS

Having regard to the location of the site within the Whitegate / Aghada development boundary, the previous permission on the site, the layout of the proposed development and the provisions of the Midleton Electoral Area Local Area Plan 2011, 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 property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further information submitted on 6th day of July 2011 and further plans received by An Bord Pleanála on the 20th day of September 2011 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Details of the design of the dwellings shall be submitted by way of a separate application for permission and shall incorporate the following requirements:
(a) houses shall incorporate traditional design principles of scale proportion detail and finish.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the disposal of surface water, 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.

4. All Site development works, with the exception of the laying of the final dressing to the road surface, shall be completed prior to the commencement of construction of any of the dwelling units.

Reason: To ensure the timely provision of infrastructural works for the development.

5. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be contoured, soiled seeded and landscape in accordance with a scheme to be agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of public open space areas and their continued use for this purpose.

6. Splayed entrances from the public road, footpath and the internal road network serving the development including turning bay, parking areas, footpaths, verges and kerbs shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

7. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard ducting shall be provided to facilitate the provision of broadband infrastructure within the development.

Reason: In the interest of orderly development and the visual amenities of the area.

8. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

9. Prior to the commencement of development, a Construction Management Plan shall be submitted to the planning authority for its written agreement. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, location of construction workers car parking, storage compounds and site

office, off-site disposal of construction waste, a scheme for dust and dirt control including vehicle wheel washing facilities.

Reason: In the interest of the amenities of the area, public health, traffic safety and public safety.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the 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 Contributions Scheme made under section 48 if the Act be applied to the permission.

11. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of such security shall be agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

Bríd Maxwell
Planning Inspector
November 2011.