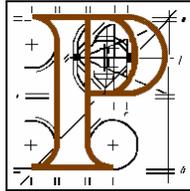


An Bord Pleanála



Inspector's Report

PL04.241711

DEVELOPMENT:- Construct dwellinghouse, relocate site entrance, site works at 51 Wheatfields, Kilmoney Road, Carrigaline, Cork.

PLANNING APPLICATION

Planning Authority: Cork County Council
Planning Authority Reg. No.: 12/06628
Applicant: Yvonne and Jose Garcia
Application Type: Permission
Planning Authority Decision: Grant Permission

APPEAL

Appellant: Florence and Liam Kearny
Type of Appeal: Third v Grant
Observers: None

DATE OF SITE INSPECTION : 13th June 2013

INSPECTOR: Mairead Kenny

SITE LOCATION AND DESCRIPTION

The site comprises a vacant serviced site in an almost completed estate of individually constructed dwellinghouses. The site is of stated area of 0.0827 hectares and is positioned between 2no. two-storey dwellinghouses. The house to the north is the appellant's house. It has a hipped roof and there are solar panels on the south face of the roof. A gable wall and pitched roof of the house to the south of the site are in situ close to the other side site boundary.

Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached to the rear of this report.

DESCRIPTION OF PROPOSAL

Permission is sought to construct a two-storey plus attic dwelling house with A-profile roof pitches. The separation from the northern site boundary is under 2m and from the southern site boundary is over 4m. A traditional approach to the house design is utilised. The proposed site entrance would be close to the southern end of the site.

PLANNING HISTORY

The parent permission for the estate is stated to be planning reg. ref. 03/6597. Permission for the house to the north of the site was granted under planning reg. ref. 05/5446 and for the house to the south under planning reg. ref. 11/4184.

PLANNING POLICY CONTEXT

The site is within the settlement boundary of Carrigaline as designated in the Carrigaline Electoral Area Local Area Plan 2011. The site is part of the existing built up area of the settlement.

SELECTED INTERNAL AND OTHER REPORTS SUBMITTED TO PLANNING AUTHORITY

The Estates Engineer's report dated 21st January 2013 recommends permission.

The Area Engineer's report dated 24th January 2013 recommends permission.

The Planner's report dated 25th January 2013 recommends permission. No financial payment arises as contributions are already paid but a cash lodgement relating to completion of the development is recommended. The predominant house type in the

estate is a large two-storey or two and a half storey house. The floor area and form of the proposed development is consistent with permitted and constructed dwellinghouses. An error in the drawing of roof of no. 52 is noted. The separation distances between boundaries is adequate and there are precedents for similar separations. The rear of the new house would extend only 1m back from the rear building line at no. 52 and will not impact on the amenities of the adjoining property to the north.

DECISION OF PLANNING AUTHORITY

The planning authority decided to grant permission subject to conditions. These include that the terms of the parent permission be complied with, that the first floor window on the northern elevation be in opaque glass and other standard matters.

GROUND OF APPEAL

The appellants reside at the house to the north, no. 52. The appeal relates to the position of the house 1.8m from the boundary wall and the shadowing impact on their solar panels which were erected following research and having obtained planning permission. The panels are an integral part of the roof and cannot be removed. Due to the position of the site entrance at no. 51 it was not anticipated that a house would be located so close to no. 52. The height of the house is also a factor in reducing the efficiency of the solar panels. The house should be either moved southwards or centralised within the site or have a hipped roof.

RESPONSES TO APPEAL

The first party notes that the minimum separation required under the building regulations is only 1m. The appellant should have taken into account the potential future development of the site. The appellants own chimney overshadows the panels. The enclosed solar study shows that the overshadowing only occurs November to January and in these months the solar panels are of negligible benefit. There is no right to sunlight and this would be unreasonable in a built up estate.

The planning authority has not responded.

OTHER CORRESPONDANCE

The appellant states that the development of the site is welcomed but that the development should be considerate of existing houses. An enclosed photograph demonstrates that the chimney does not overshadow the solar panels. In the winter

months the water is heated to 20 degrees allowing for ease of further heating. As a family we have a particularly high level of hot water usage for reasons outlined.

ASSESSMENT

I have no objection in principle to the location of the revised entrance and to the detailed design of the dwelling house, which I consider is in keeping with the houses in the estate, which are of varied design. I note that the site layout generally retains the established front and rear building lines. I note that a letter of objection referred to overshadowing of the patio at no. 52 but I do not consider that any significant adverse impact arises and I note that this matter is not raised in the appeal.

I consider that this appeal must be determined primarily in terms of whether the position of the house is acceptable considering the impact on the appellant's solar panels. I note that one option suggested by the appellant is that the proposed house would have a hipped roof, which would be a substantial revision to the design. I consider that this alternative is not warranted and would be a completely excessive requirement in view of the quite limited overshadowing of the appellant's house.

The heart of the issue arising therefore is whether it would be reasonable to require the applicant to position the proposed house either further to the south or centrally within the site. The layout shows that there is over 4.5m passageway provided to the south of the proposed house and under 2m between the flank wall of the proposed house and the boundary wall. I agree with the first party that in general a 2m separation would be deemed to be sufficient. In addition I note that the appellant's own house is similarly positioned relative to the site boundaries. On the other hand the appellant has not given any reason for the location of the southern end of the house. The selected position of the house may be chosen for maximum solar gain. There is no indication that a wide side passageway is required for any reason.

I consider that this is a very finely balanced case. There is no right to sunlight and the Board may rightly be concerned about setting any precedents relating to the protection of solar panels. However, on the other hand the position of the house has not been explained by the applicant and there is no apparent reason why a compromise situation was not agreeable. I conclude on balance that a reasonable concession in this case can be found in a requirement to maintain a 3m separation from the northern site boundary. The recommendation is effectively to meet with the

appellant's request in the circumstance where the applicant has not outlined the reasons why such layout is unacceptable and has acknowledge winter overshadowing of the appellant's solar panels. Furthermore, I consider that a central positioning of the house on the site is preferable in terms of visual amenities. My recommended condition would result in lessening of the winter overshadowing and will not in my opinion detract from the layout of the house in terms of its enjoyment by future occupants, or adversely impact on the amenities of the house to the south. Arguably there would be a minor improvement in visual amenities.

I note the range of conditions recommended in the decision of the planning authority which relate to the repair of any damage to roads and footpaths, the dishing of the footpaths and the provision of parking spaces within the site. I consider that these matters are covered by the drawings submitted and / or by other codes and the parent permission. The permanent closure of the new entrance is implicit in the application drawings. No gates are shown on the application drawings at the site entrance but it is reasonable to attach a requirement that any gates should open inwards. I do not consider that a condition regarding sight distance triangles is appropriate in this context.

I do not consider that further investigation of issues related to Appropriate Assessment is required.

RECOMMENDATION

I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

REASONS AND CONSIDERATIONS

Having regard to the location of the site within the settlement boundary of Carrigaline and to the design, 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 and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The terms and conditions of planning register reference 03/6957 shall be complied with in full except where contravened by the terms and conditions of this permission.

Reason : In the interest of clarity.

3. Prior to commencement of development, the applicant shall submit for the written agreement of the planning authority revised plans incorporating the following requirements: -

- i. a 3m separation shall be provided between the northern flank wall of the dwelling house and the boundary wall defining the northern site boundary
- ii. the first floor window on the northern elevation shall be permanently retained in opaque glazing.

Reason: In the interest of visual and residential amenity.

4. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for agreement.

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

5. 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.

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

6. 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.

7. Construction and site works to implement the proposed development shall only be carried out between 0800 hours and 1900 hours, Monday to Friday and between 0900 hours and 1400 hours on Saturday and not at all on Sunday, Bank or Public Holidays.

Reason: To safeguard the amenities of adjoining residential occupiers.

8. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to the planning authority for agreement before development commences. The scheme shall include a timescale for its implementation.

Reason: In the interest of visual amenity.

9. Any gates erected at the site entrance shall open inwards.

Reason : In the interest of traffic safety.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit of €2,000 to secure the provision and satisfactory completion of the development.

Reason: To ensure the satisfactory completion and maintenance of the development.

Mairead Kenny

Senior Planning Inspector

20th June 2013