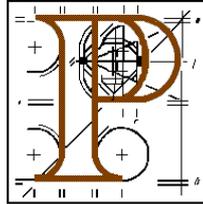


An Bord Pleanála



Inspector's Report

Proposed Development: House, New Vehicular and Pedestrian Entrance with gates and associated site works at 32 Coxtown East, Dunmore East, Co. Waterford.

Planning Application

Planning Authority: Waterford City & Co. Co.
Planning Authority Reg. 15/596
Applicant: Victor and Marie O'Loughlin
Type of Application: Permission
Planning Authority Decision: Grant with Conditions

Planning Appeal

Appellant(s): Nicholas & Maire Walsh
Paul and Miriam Thomas
Observations: Victor and Marie O' Loughlin
Type of Appeal: 3rd Party- V- Decision
Observers: None

Date of Site Inspection: 24th of March 2016

Inspector: Caryn Coogan

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site, 0.175Ha, is located on the outskirts of Dunmore East village, within a residential cul de sac of detached dwellings called Coxtown East. The site is No. 32 and it slopes from south to north. There is a two storey dwelling to the rear/ north of the site (El Faro) located on a higher ground level than the subject site. Along the eastern site boundary are two detached dwellings which have no boundary treatment and are open plan when viewed from the subject site.
- 1.2 The southern site boundary is an unfinished access road to lands immediately west of the subject site. It also includes a bungalow and low boundary wall positioned alongside and unfinished access road which will serve lands to the west and is not included in the subject site boundaries, although the same access from the residential estate will serve both..
- 1.3 Access to the site is from an existing residential estate, Laoi Na Mara, in Coxtown east, Dunmore East. There is a mature hedge along the western site boundary, a fence and hedging to the north, no boundary to the east alongside two existing dwellings. To the south there is a bungalow with a block wall along the communal boundary of an unfinished access road to lands to the west and the subject site.

2.0 PROPOSED DEVELOPMENT

The proposed development is a detached dwelling, 282sq.m., which is made up of two components and linked in the middle. It is a split level bungalow with the main living accommodation in the front portion of the dwelling and five bedrooms in second component of the dwelling. The dwelling also includes an integrated double garage.

3.0 SUBMISSIONS RECEIVED

Objections were received from neighbours citing the following concerns:

- The correct address is 32 Laoi Na Mara which is covered by 00/229. The overall development remains incomplete, and the original developer flouts his obligations in terms of maintaining green areas, walls, unsightly undeveloped sites
- The developer of the entire site area ignores planning conditions, no further development should be permitted within the estate.
- The proposed dwelling does not protect the amenity of the existing residents. It is visually overbearing and totally out of character and scale with the dwellings in the area.

- The proposed dwelling does not have regard for the topography of the area.
- The house is not adaptable for lifelong situations
- The dwelling and the 1.8metre boundary treatment will obstruct light to the north-east. These dwelling and wall should be reduced by 1.2metres.
- The dwelling has three levels, the original permission stated the dwellings should all be single storey. There are rises throughout the dwelling exceeding 2metres which directly impact on the visual amenity of the neighbouring houses.
- The boundary along El Faro to the north is an 1.8metre wall which exceeds the 1.6metres hedge.
- The dwelling can be divided into two houses in the future.

4.0 TECHNICAL REPORTS

Water Services: Further information regarding surface water collection and disposal is required.

Planning Report: The development is agreeable with the policies and objectives of the governing development plan.

5.0 PLANNING AUTHORITY'S DECISION

Waterford City and County Council granted the dwelling subject to 8No. standard conditions.

Condition No. 2 Financial Contributions

Condition No. 6 Site levelling

Condition No. 8 Detailed specifications of external materials and omission of proposed entrance along the northern eastern boundary and the provision of a footpath along the full length of the roadside boundary.

6.0 APPEAL GROUNDS

Mr and Mrs Nicolas and Maria Walsh who reside at El faro to the north of the site, and Mr. and Mrs Miriam Thomas, have appealed the decision to grant on the following grounds.

6.1 Zoning Objectives and Visual Amenity

In the Waterford County Development Plan 2011-2017 Coxtown East is located within development area zone R1 – which is to *protect amenity of existing residential development and provide new residential development – medium density*. The proposed dwelling does not conform with the objective because the design does not protect the amenity of existing residential development. The dwelling is visually overbearing and totally out of character with the scale and character of dwellings in the neighbourhood.

Under Design Objective DO11 the Council should have regard to the topography and an appropriate design approach which uses existing contours and respects the established pattern of development in the vicinity. The proposed dwelling does not have regard for the topography of the site and does not respect the established pattern of development in the vicinity.

7.2 Part M Compliance

As stated in the Waterford County Development Plan 2011-2017 Volume 1 – Part M of Building Regs. 2001 provides mandatory instructions that all new housing (private, affordable and social) must be designed to enable adaptable lifelong housing adaptable housing at a later date. There are at least three non-compliant design issues inherent in the current proposal which good design principles would resolve.

7.3 Right to Light

Paul and Miriam Thomas is situated to the northeast of the site will greatly reduce and obstruct the light to their dwelling. It will eliminate evening western sunlight almost completely and greatly reduce sun light from the south west.

A redesign and a reduction in height of 1.2metre of the proposed dwelling and site boundary taking cognisance of this right would greatly mitigate this issue.

7.4 Height of Proposed Dwelling

There is living and sleeping accommodation within three levels on the site. Under An Bord Pleanála reference PL24.120799 condition No. 2 stated dwellings on site numbers 29-39 inclusive shall be single storey only, with no provision for habitable accommodation in the roof space. The change in level of 1.5metres is excessive.

The living block of the dwelling is elevated over the existing ground level at the entrance gate to the proposed floor level of the front living block of the dwelling.

7.5 Site Boundary

The proposed 1.8m high wall to the north of the site adjoining El faro is higher than the existing hedge. The existing hedge is on average 1.6metres and not 2metres in height as shown on the drawings.

7.6 Potential subdivision of the Dwelling

The dwelling is designed in two units, one for living accommodation and one for bedroom accommodation

8.0 OBSERVATIONS

8.1 Victor and Marie O'Loughlin have made a broadly similar submission to the appellants. It is summarised as follows:

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8.8 There is no objection to the principle of a dwelling on the site, the objection is that the design solution should be more appropriate to the site and the locality.

9.0 RESPONSES TO THE APPEAL

9.1 Planning Authority

The planning authority has responded stating there may be a number of issues regarding light and views. Building Control matters are beyond the remit of the planning application. Issues relating to dividing the dwelling into two units can be dealt with by enforcement.

9.2 Applicants

In response to claims of the proposed dwelling been overbearing, the Board is asked to refer to section drawings submitted. Section AA highlights neighbouring dwellings. The house to the south east has a ridge level of 62.44m and difference of -2.065m from the south east ridge of applicants dwelling at 64.5metres. The distance between the two dwellings is 27metres. The house to the north-west has a ridge height of 70.542metres (a difference of +4.834m from the north west ridge of the applicant's dwelling at 65.7m. The distance between the dwellings is 22metres. Considering the sections, the height and massing of the proposed dwelling relative to neighbouring houses is not overbearing, particularly in the context of the two storey dwelling to the north west.

The specification and design of the proposed dwelling mirror dwellings within Coxtown East. The proposed stepped approach to the dwelling house is appropriate to the site's topography. The planning authority considered the design appropriate and condition No.6(a) stating levels.

The artist impression montages submitted during the planning application and in an observation on appeal, are grossly inaccurate and present a perception of the scale and massing of the house particularly in comparison to neighbouring houses. On appeal, the applicant has submitted an accurate photomontage of how the dwelling will look on the site and within the neighbourhood.

The proposed dwelling is compliant with Part M- Access and Use (2010), including entrances and stairs.

The third party appeal states the proposed dwelling will impact on light to neighbouring houses. One house to the northwest is mentioned in particular, Lackandara. Along the northwest boundary there is 2metre hedging, and the proposed 1.8metre wall/ fence would be lower than the hedge. . There is a light/ shadow study submitted on appeal which illustrates there will be no impact on the Thomas's house, Lackendara. The proposed 1.8metre wall is 12metre from the dwelling, and the proposed dwelling is a further 10metres form the boundary wall.

The changes in levels across the proposed development, from the front of the house to the rear, are a reflection of the site's changes in levels. Each block of the dwelling is single storey and low profile, which is compliant with the original grant of permission Ref. No. 120799 Condition No. 2. There is no provision for habitable living in the roofspace of the proposed dwelling and this is reinforced by Condition no. 2.

The suggestion by the appellant that the development should be reduced in height by 1.2metres would involve major site excavation works, and would prevent natural light to the vast majority of rooms within the proposed dwelling.

The hedge to the rear of the site along the northern site boundary is 2metres high.. The hedge is considerably higher than the timber fence also located along the northern site boundary. The proposed 1.8metre wall would be below the level of the hedge.

The house will not be subdivided into two separate dwelling units. Both blocks do not have separate extended entrances. The overall deisg is unsuitable for subdivision.

9.3 APPELLANT'S RESPONSE

There were no new issues raised in the submission. The ridge height of the neighbouring house is at 70.54metres and not correctly indicated. The dwelling is overbearing and should be reduced by 1.2metres overall. There has t be a condition attached that the dwelling will be a single unit only.

10.0 PLANNING HISTORY

Under 00/229 there was planning permission granted for 39No. Development sites and outline permission for 39No. Houses. The subject site is No. 32 of that overall permission. This case was the subject of an appeal to An Bord Pleanala, PI24.120799, case attached.

04/126 Permission was applied for on the subject site to build a dwelling but there was no decisions on the application.

06/706 Permission applied for a dwelling on the site. There was no response received to the request for further information regarding a revised house design.

11.0 DEVELOPMENT PLAN

Waterford County Development Plan 2011-2017

The lands are zoned for residential development.

Chapter 10 outlines design consideration for residential developments.

12.0 ASSESSMENT

- 12.1 The subject site is located within a residential estate on the outskirts of the coastal village Dunmore east. The estate would appear to be individual sites. There was planning permission for the entire development of 39No. Sites permitted under planning reference 00/229. The subject site is plot No. 32. A condition attached to the parent permission prescribed the houses to be developed in the scheme should be single storey.
- 12.2 The subject site is vacant, undeveloped and the end of a cul de sac. There is an unfinished access road along the southern boundary of the site, to further development lands to the west. There are dwellings contiguous to the site along its, northern, southern and eastern site boundaries. The dwelling to the north is two storey the other three dwellings are single storey. The site is serviced and is 0.175ha. It slopes upwards from south to north. There is a road access to the site at the south east extremity.
- 12.3 The site is zoned residential in the current development plan for the area. The existing and permitted land use is residential. The proposed development of a dwelling on the site is acceptable in principle.
- 12.4 The third party appellant and observers objected to the proposed dwelling on the basis of its design. Their concerns have also formed the basis of this appeal. The third parties consider the proposed house design to be inappropriate, overbearing, excessive height, and will result in the loss of amenities to the existing dwellings in terms of overshadowing and loss of views.

- 12.5 The site has a southern orientation and slopes northwards as stated earlier. The buildings surrounding the site include a mix of bungalows and a two storey dwelling positioned on an elevated site to the rear along the northern site boundary. I am mindful that the site is located within a suburban context, yet it is a substantial site with excellent separation distances from contiguous dwellings. Therefore, I consider the subject site has good carrying capacity to accommodate a single storey dwelling over a large footprint as proposed (282sq.m.). The house is designed over two levels, with the main living areas in one single storey block and the sleeping accommodation (5No. Bedrooms) within another block, with a difference in ridge height between the two blocks of 1.2metres, which is similar to the natural ascending gradient across the site. From the floor plan drawing there appears to be 6No. Carparking spaces associated with the dwelling. I would question whether it is intended to convert the dwelling to a guesthouse at a future date, there was no explanation given for the number of the number of spaces proposed.
- 12.6 The proposal is similar in density to the adjoining residential developments. I recommend a condition be attached that the dwelling will be occupied as a single dwelling unit only, and not operate as a guesthouse. This requirement respects the neighbourhood and existing density and landuse. The contemporary design and use of stone cladding will make a positive contribution to the area. I refer to Board to the photomontages presented on appeal by the applicant. The garden character and layout of the neighbouring houses is maintained under the current proposal. I consider the proposed layout integrates appropriately with the neighbouring properties and respects separation distances and existing privacy.
- 12.7 The crux of the appeal lies in the proposed building envelop. The appellants consider the setbacks, height and boundary treatment to be excessive and that the visual bulk of the development is unacceptable. The nearest dwelling is 22metres from the proposed dwelling, and it is on average 23metres from the existing dwellings to the east. The overall legibility of the dwelling is single storey, it has a low roof profile and would not be considered a dormer or a one and a half storey dwelling. I find it disingenuous that appellants from a two storey dwelling positioned on a higher ground level overlooking the subject site would consider the proposed dwelling to be overbearing. I also find it disingenuous that properties with no site boundaries consider the proposal will result in a loss of light or views when in fact the baseline case is not unusual within a suburban setting. Most of the concerns expressed by the appellants have been unsubstantiated by clear technical drawings or dimensions detailing how a disamenity will occur.
- 12.8 Part M of the Building Regulations is beyond the remit of this appeal. The proposed boundary treatment 1.8metre wall, is a standard boundary treatment within a suburban residential area. There will be no disamenity to adjoining properties as a result of the wall, in fact the properties will achieve a planning gain by been afforded greater privacy.

13.0 RECOMMENDATION

I recommend the planning authority's decision to grant permission for the proposed development be upheld subject to the following reasons and considerations.

REASONS AND CONSIDERATIONS

Having regard to the established character and pattern of development in the vicinity of the site and to the nature, scale and design of the proposed development which has been designed to integrate into the inclining site and comply with the single storey dwelling type predominant in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would provide an acceptable standard of residential amenity for future residents of the proposed dwelling, would not seriously injure the residential amenities of adjoining dwellings by reason of overshadowing, and would comply with the provisions of the governing development plan, and therefore, 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 in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and 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.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

6. The dwelling unit shall be a single dwelling units only and shall not be used as a guesthouse or a bed and breakfast.

Reason: In order to comply with the submitted plans and proposals.

7. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Caryn Coogan

Planning Inspector

4th of April 2016