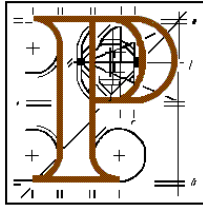

An Bord Pleanála



Inspector's Report

Development: House, Ballincrossig, Glanmire, Co. Cork.

Planning Application

Planning Authority : Cork County Council
Planning Authority Register Reference : 15/5893
Type of Planning Application : Permission
Applicants : Catriona Forde & Tom Triggs
Planning Authority Decision : Grant subject to conditions

Planning Appeal

Appellants : Rory & Louise O'Sullivan
Type of Appeal : 3rd Party v. Grant
Observers : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 04/07/16

Appendix - Photographs

1. SITE LOCATION AND DESCRIPTION

The site, which has a stated area of 0.26 hectares, is within the grounds of an existing detached dormer dwelling accessed from the R615 c. 300 metres to the west of Glanmire shopping centre in north Glanmire. The road is relatively narrow in the vicinity of the site with no footpaths. The Springmount Housing Estate backs onto the road on the opposite side of the road.

The existing dwelling on the site has a north-south orientation with the site sloping down steeply to a stream that delineates the northern boundary. The appeal site is irregular in shape and entails the grounds to the south and west of the existing dwelling. The site is largely overgrown with the southern section elevated over the existing dwelling. There is a small garden shed along the northern boundary which is delineated by mature planting. The narrow portion of the site that extends to the road is landscaped with trees and planting.

The appellants' property bounds the site to the south and is higher than the appeal site. Its rear garden area is laid out in a terraced format working with the steep slope with a stone well noted in the north-western most corner. The boundary to the appeal site is delineated by a dry stone wall and mature planting.

2. PROPOSED DEVELOPMENT

The application was received by the Planning Authority (PA) on the **24/08/15** with further plans and details received **12/01/16**, **14/01/16** and **01/03/16** following requests for further information (FI) and clarification of FI dated 30/09/15 & 04/02/16 respectively.

The proposal is for a split level dwelling to be positioned to the south-west of the existing dwelling on the site. The external finishes are to be a mix of plaster, and timber and stone cladding with a selected zinc coated roofing.

The location of the dwelling is to be excavated with retaining walls constructed. The lower level of the dwelling is to have a finished floor level of 34.5 metres. The dwelling has a stated overall height of 7.825 metres.

The site is also to be excavated to provide for the driveway with the finished ground level rising from 28.24 metres at the roadside to 36.64 metres at the dwelling. Gabions between 1 and 4 metres in height are proposed to both sides of the driveway with the embankment to the property to the south to be graded.

As amended a shared access arrangement is proposed in which the existing entrance would serve the proposed dwelling and a new entrance proposed to serve the existing dwelling. This arrangement will require the repositioning of the northern stone wall and pier. The dwelling is to be served by a separate driveway immediately to the rear of the existing dwelling along the southern site boundary.

The dwelling is to be served by an effluent treatment plant to be located on the lower ground to the north-west of the site. From the Site Suitability Assessment report a T-value of 12.56 and P-value of 19.61 were recorded.

A tree survey and root protection plan accompanies the application (response to FI).

Note: An objection to the proposal received by the PA has been forwarded to the Board for its information. The issues raised are comparable to those set out in the 3rd party appeal summarised in section 5 below.

3. TECHNICAL REPORTS

The **1st Area Engineer's** report dated **22/09/15** recommends FI on sight lines at proposed entrance and soakaway locations. The **2nd report** dated **01/02/16** following FI notes that the sight line to the south at 28 metres is unacceptable on this busy regional road. Sightlines of at least 50 metres are required. A refusal of permission is recommended. The **3rd report** dated **03/03/16** following clarification of FI has no objection to the amended access arrangements and recommends a grant of permission subject to conditions.

The **1st Planner's** report dated **30/09/15** considers the split level house design to be acceptable in principle as it provides a low impact solution to the issues that arise with the terrain. The site is large and of sufficient area to accommodate the proposed dwelling. The details accompanying the application are not sufficient to carry out a full assessment. The site layout should include details of the circulation space around the perimeter of the house providing details of proposed stairs, walkways and retaining structures. Further details are required on the proposed driveway including measures to retain the boundary ditch/ and all trees. Details of trees/hedgerows to be retained also required. A request for FI is recommended. The **2nd report** dated **04/02/16** following FI recommends clarification of FI on the issue of sightlines. The **3rd report** dated **09/03/16** following clarification of FI response considers the revised access arrangements to be acceptable and a grant of permission subject to conditions is recommended.

4. PLANNING AUTHORITY'S DECISION

The PA decided to grant permission for the above described development subject to 16 conditions detailing standard planning and engineering requirements including condition 3 which requires details of fencing and other measures for protection of trees and hedgerows to be submitted.

5. GROUNDS OF APPEAL

The submission by Aidan O'Brien Consulting Civil Engineer on behalf of the 3rd Party appellants, which is accompanied by supporting detail, can be summarised as follows:

- The appellants have no objection in principle to the proposed development.
- There are concerns about the impact of the proposed entrance on their property. The proposed access road directly abuts their property at one location and is located directly adjacent to the northern boundary for the remainder.
- The shared northern boundary wall is of dry stone construction and is in a fragile condition.
- The existing ground level is 3.9 metres below the floor level of their dwelling. The section drawing submitted shows the finished access drive level approx. 3.5 metres below the existing ground level which results in a finished level of the access road being 7.4 metres below the floor level of their dwelling at a distance of 4 metres from the gable. Additional excavation would be required to construct the retaining structures, road and to provide safe working space for personnel. Such depth of excavation, regardless of mitigation or techniques that may be employed, is unacceptable.
- There are serious concerns that the proposed works in such proximity would undermine the northern gable of their dwelling and would pose unacceptable risk to its structural integrity. The stone boundary wall at this location is in poor condition and would collapse if proposed excavation was to proceed. The trees and the ESB pole near the boundary would also be at risk of collapse.
- The drawings submitted as part of the application do not detail the location of the boundary wall, trees, or the appellants' dwelling. This indicates that safeguarding their property was not factored into the design. No sign off of works by a suitably qualified person was submitted to the County Council as required by the further information request. There was no construction management plan, design statement, method statement or other such document provided.

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- There are concerns that post construction the soil bank over the proposed gabions would be at risk of erosion during heavy rainfall. This could result in a reduction of the bearing capacity of the soil in which their dwelling is founded.
 - Water from the artesian well in the north-western corner of their site flows through the applicants' site to a stream along their northern boundary. No details have been provided as to how the flow is to be dealt with. There are concerns that any interruption to the flow could cause flooding on their property.

6. APPLICANT'S RESPONSE TO GROUNDS OF APPEAL

The applicants' response, which includes details of correspondence had with the appellants and supporting detail, can be summarised as follows:

- Significant and serious consideration has been given to the requests from Cork County Council during the assessment of the application.
- The gabions can be replaced by a concrete retaining wall (drawing submitted in support). The applicants are willing to rebuild the boundary wall if damaged. This wall is already falling away in parts.
- In terms of the well it is situated on a water table which rises in times of heavy rain. Given that the ground on the O'Sullivan property is lower than the Forde property, water naturally flows through the O'Sullivan property. Bill Forde (father of applicant) dug a trench and installed an 8 inch pipe and the pipe remains in place. A drainage pipe which would run to the stream is to be included in the development (drawing submitted in support). The issue is an existing problem for the O'Sullivans and the proposed development will not have a bearing on the well.
- The dwelling is intended as the applicants' their family home.

7. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION

None

8. RESPONSE TO APPLICANTS' SUBMISSION

The applicants' response to the grounds of appeal was circulated to the other parties for comment by way of Section 131 notice. A response from the appellants was received. The submission is accompanied by photographs and details of correspondence with the applicants and can be summarised as follows:

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- They have not received adequate details on the process and feasibility of removal/retention of the boundary wall and any vegetation/trees. Neither has a section of driveway and their property at the point of closest proximity and maximum depth been provided. They have no knowledge or evidence of soil samples being taken on the site in case of soil slippage.
 - In terms of the proposed pipe from the well they are not sure than the 150mm pipe will be sufficient but it is considered to be better than what is currently in place.
 - There is no detail provided in relation to the process of removal, temporary works and reinstatement of the boundary wall and any planned removal and replanting of trees. There is minimal working space, if any, allowed for. The slope of the embankment up from the proposed foundation is steep and, depending on soil type, may not meet health and safety requirements.

9. OBSERVATIONS

None

10. RELEVANT PLANNING HISTORY

Reference is made in the 1st Planner's report to permission for alterations to existing dwelling on the site under 05/3122 and permission for demolition of dwelling and its replacement on the appellants' site under 07/4486.

11. DEVELOPMENT PLAN PROVISIONS

The Blarney Electoral Area Local Area Plan 2011 refers. In same the site is within the development boundary of Glanmire.

12. ISSUES AND ASSESSMENT

The site is accessed from the R515 within the development boundary and speed limits of Glanmire with the lands on the western side of the road in the vicinity characterised by one off housing on large plots. The Springmount housing scheme backs onto the road on the eastern side. The principle of the dwelling on the site is acceptable.

I consider that the issues arising relate to the impact of the proposed development on adjoining property and their amenities.

The proposal is for the sub-division of a site on which there is a dormer dwelling served by a large garden to the north with the lands to the west and north-west not maintained and somewhat overgrown. By reason of the topography of the area with steep falls from south to north the site presents certain complexities in terms of construction and access.

The proposed split level dwelling is to be located to the west of the existing dwelling with the site to be excavated with retaining walls to provide for a finished floor level of 34.5 which is some 3.24 metres higher than the finished floor level of the existing dwelling to the east. The dwelling will be at a lower level than the appellants' dwelling to the south-east with the section drawings submitted with the application illustrating same. Issues of privacy and overlooking will not arise.

A driveway along the southern boundary of the site is proposed to serve the dwelling and will run in close proximity to the boundary with the appellants' property which is delineated by a dry stone wall and mature trees. The appellants are concerned that the proximity of same and its construction would have a material negative impact on the structural integrity of their dwelling. Again the site requires excavation to allow for such provision and from the details provided in response to the clarification of further information received by the PA on the 01/03/16 excavation depths of between 3 and 3.78 metres will be required. The driveway at the nearest point to the appellants' property with a setback of in the region of 2 metres from the boundary line and 6 metres from their dwelling would be c. 4.5 metres lower than the finished floor level of their dwelling. Gabions ranging in height from 1 to 4 metres are proposed increasing in height from east to west with those at the point closest to the appellants' dwelling being 3 metres in height. The embankment to the south is to be graded 1:1.5. The applicants, in response to the grounds of appeal, propose to replace the gabions with a retaining wall which would be to a height of 3 metres in the vicinity of the appellants' dwelling. It is also proposed to replace the dry stone wall along the southern boundary if necessary (Driveway Cross Section E-E drawing refers).

I submit that the site access arrangements require significant interventions and will be material however by reason of the level of roadside and boundary screening the visual impact will not extend beyond the site.

I consider that the applicants have provided sufficient detail to support their claim that with the incorporation of engineering solutions the proposed works, especially the driveway, can be constructed without having an adverse impact on the adjoining property. The works will invariably require works to the boundary wall and planting

along same which will require the consent of the adjoining landowners. In this regard, therefore, the applicant should be advised of Section 34(12) of the Planning and Development Act, 2000, as amended, which states that a person is not entitled solely by reason of a permission to carry out any development.

There is a well in the north-western corner of the appellants' site with water flows across the appeal site to the stream that forms the northern boundary to same. Historically a drain traversed the appeal site to assist against potential waterlogging/flooding of the appellants' site. The applicants propose to replace same with a 150mm pipe along their western boundary. Whilst the appellants express concern as to the adequacy of the pipe size they are amenable to such an arrangement. I consider that this could be satisfactorily addressed by way of condition.

Sufficient detail has been provided as to the site's suitability for the wastewater treatment system proposed.

AA- Screening

The site is c. 1.3km to the north of Cork Harbour SPA (site code 004030) the qualifying interests of which include 24 species of birds and is of international importance for the total number of wintering birds (over 20,000) and for its populations of Black-tailed Godwit and Redshank. The site is c. 4.5km to the north west of Great Island Channel SAC (site code 001058) the qualifying interests for same area being mudflats and sandflats not covered by seawater at low tide and Atlantic salt meadows. Detailed objectives have been drawn up for the two sites the overall aim being to maintain or restore the favourable conservation status of habitats and species of community interest so as to contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. Taking into consideration the suburban location of the site within the development boundary of Glanmire, the fact that the site is capable of being served by an effluent treatment system, and the relative separation distances between the sites it is reasonable to conclude that on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and in particular specific site numbers 004030 and in view of the sites' conservation objectives. An appropriate assessment (and submission of a NIS) is not therefore required.

13. RECOMMENDATION

Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and the assessment above I recommend that permission for the above described development be granted for the following reasons and consideration subject to conditions.

REASONS AND CONSIDERATIONS

Having regard to the location of the site within the development boundary of Glanmire, to the pattern of development in the vicinity and to the scale, nature and design of the proposed development, 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 the residential amenities of property in the vicinity, would not give rise to a traffic hazard 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 as amended by the further plans and particulars received on the 12th day of January, 2016, 14th day of January 2016 and the 1st day of March, 2016 and by the plans and particulars received by An Bord Pleanala on the 23rd day of May, 2016, 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. Retaining walls shall be constructed along the proposed driveway in accordance with the details received by An Bord Pleanala on the 23rd day of May, 2016. Full details of the said walls shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of clarity

3. A drainage pipe of a suitable size shall be installed along the western boundary of the site to convey water from the well located to the south-west of the site to the stream bounding the site to the north in accordance with the details received by An Bord Pleanala on the 23rd day of May, 2016. Details

of the size of the pipe shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of clarity and the protection of the amenities of adjoining property

4. 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

5. No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees and shrubs which are to be retained have been protected in accordance with the Tree Survey and Root Protection Plan submitted to the planning authority on the 12th day of January, 2016.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

6. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority 24th day of August, 2015, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

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

Reason: In the interest of visual amenity

8. 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:

- (a) Protection measures for the southern boundary and embankment
- (b) Hours of working
- (c) Details of appropriate mitigation measures for noise, dust and vibration,
- (d) Off site disposal of construction and demolition waste
- (e) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

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

9. 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.

Pauline Fitzpatrick
Inspectorate

July, 2016