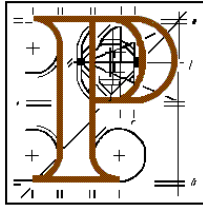

An Bord Pleanála



Inspector's Report

Development: House, garage and wastewater treatment system, Site 10, Ballinluska, Myrtleville, Co. Cork

Planning Application

Planning Authority : Cork County Council

Planning Authority Register Reference : 15/5642

Type of Planning Application : Permission

Applicants : O' Shea & O' Sullivan

Planning Authority Decision : Refuse

Planning Appeal

Appellants : O'Shea & O'Sullivan

Type of Appeal : 1st Party v. Refusal

Observers : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 04/07/16

Appendices

1. Photographs
2. Extracts from the Carrigaline Electoral Area Local Area Plan, 2011

1. SITE LOCATION AND DESCRIPTION

The site, which has a stated area of 0.30 hectares, is accessed via a narrow local road off the R612 in the coastal settlement of Myrtleville located on the Crosshaven peninsula c. 2km to the south of Crosshaven. The existing settlement is located on both sides of a valley leading down to Fennel's Bay and is unplanned and characterised by linear development. In terms of existing building stock styles vary with a predominance of single storey and dormer of varied scale, form and design. Many appear to have originally been temporary/holiday homes with a significant number having been extended or refurbished in more recent years.

The site constitutes part of a larger field with the field boundaries delineated by hedgerows with falls from north to south. The local road is characterised by extensive one off housing with three dwellings immediately opposite the site with a spur road off the local road serving a ribbon of dwellings that back onto the local road. Two dwellings nearing/recently constructed are noted on sites to the east of the appeal site. The road in the vicinity of the site is not capable of accommodating unimpeded two way vehicular traffic. Due to the set back of the front boundary of a dwelling recently constructed the road in the vicinity of its junction with the regional road has been widened.

2. PROPOSED DEVELOPMENT

The application was lodged with the planning authority (PA) on the **24/07/15** with further plans and details received **09/12/15** and **11/03/16** following requests for further information (FI) and clarification of FI dated 16/09/15 and 13/01/16 respectively.

A single storey dwelling served by a wastewater treatment system and raised polishing filter is proposed.

The Site Characterisation Assessment states that due to the shallow rock the site is not suitable for a septic tank or a secondary treatment system with a buried polishing filter. A P value of 5.58 was recorded.

By way of clarification of FI the northern roadside boundary is to be set back from the T junction as far as the site bounding the appeal site to the east (site no. 11) thereby widening the road to 6 metres. Soakaways are proposed along same for surface water disposal.

3. TECHNICAL REPORTS

Irish Water in a report dated **15/08/15** has no objection subject to conditions.

The **1st Area Engineer's** report dated **15/09/15** notes that the site distances are poor but that the applicant is in control of the lands to the east and west of the site. Given that the entire road falls within the local development boundary there appears to be an overall plan/initiative via the previous planning applications to widen the public road to 6 metres thereby providing sustainable public road infrastructure for the quantum of development expected going forward. The best way forward is to have the developer widen the road as enabling works for the overall development of the lands. It is considered that the local authority should not engage with the piecemeal development of the overall holding until this proper road infrastructure is provided. The site is on the margins of suitability because of the very fast P test times recorded. Further information is recommended. The **2nd report** dated **12/01/16** following FI notes that the applicants propose further development on their lands and will result in a plethora of one off housing sites of which the engineering issues have been identified in the 1st report. The developers should be required to widen the road. A refusal of permission is recommended on the basis that the site should it be developed may prejudice the widening of the entire road and such piecemeal development should not be facilitated. The **3rd report** dated **16/03/16** following clarification of FI notes that the proposal for a 6 metre wide road is welcomed but should provide for a footpath and public lighting. The issue of storm water drainage from the roadway has not been addressed.

The **1st Planner's** report dated **16/09/15** notes that the Board's refusal for a residential development on the wider lands under ref. 08/9527 also meant that a possibility of a public sewage network serving the proposed development and existing settlement would not happen. The overall pattern of development that emerges will need to be monitored. This is the 4th application and the latest plan shows a potential for a new estate road into the back lands. As to who delivers the road widening needs to be addressed. A request for further information is recommended. The **2nd report** dated **13/01/16** following FI recommends clarification as to the proposed roadside boundary location and treatment and sightlines available. The **3rd report** dated **05/04/16** following clarification of FI notes that although a condition could compel the developer to undertake all road widening from the T junction for a distance of 100 metres there is no apparent or obvious solution to dealing with the issue of surface water arising from a widened local road. A refusal of permission is recommended.

The **Senior Executive Planner** in a report dated **05/04/16** concurs with the Planner's recommendation above.

The **Liaison Officer's** report dated **05/04/16** notes that the Area Engineer's requirements have not been met. A refusal of permission is recommended.

4. PLANNING AUTHORITY'S DECISION

The PA decided to refuse permission for the above described development for the following reason:

The individual proposed development and the inter-related development works to set back and widen the overall road to provide sightlines and support extra housing, makes insufficient provision for dealing with additional surface water and roadside drainage, and having regard to the lack of any existing or nearby drainage infrastructure and the proximity of the nearby property (downstream), the Planning Authority is not satisfied that the application provides for adequate surface water infrastructure, conflicting with Policy Objective WS 5-1 in the County Development Plan, 2014.

5. GROUNDS OF APPEAL

The submission by Hudson Associates Architects on behalf of the 1st Party against the PA's notification of decision to refuse permission can be summarised as follows:

- It is considered that the applicants' submission of a master plan indicating the broad development intentions and then addressing site specific issues through respective applications reflects a reasonable and appropriate approach and response to the particular zoning of the area.
- Subsequent to the Board's refusals of permission on file refs. 08/9527 and 10/8248 the applicants have refocussed their attention on development that complies with the development plan requirements, namely new development restricted to low density, principally individual dwellings, infill development ... provided satisfactory sewage disposal arrangements can be made. This series of incremental applications facilitated by the development plan has since proceeded with permission granted for three dwellings (sites 1, 2, & 3 on masterplan).
- Prevailing planning policy encourages residential development in the established settlements in order to relieve development pressure on rural areas and submit that this imposed some duty on the PA of presumption in favour of such development wherever reasonable and possible.
- The single reason for refusal implies that all other aspects of the proposal are acceptable to the PA.

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- Roadside drainage has been addressed and is set out in the response to FI dated 09/03/16 specifically drawing no. 15.02.PL002B. This show a series of road gullies along the northern edge of the proposed road-widening connected and discharging to independent soakaways within Site Nos. 8, 9, 10 & 11.
 - It is considered that given (1) the incremental drainage from the hard building and landscape surface of site no.10 is disposed to separate soakaways as indicated in the above drawing, (2) the exceptionally free-draining nature of the ground in the vicinity and (3) the proposed roadside boundary is providing additional specific soakaway capacity to that already available within the lands, the proposed roadside drainage arrangements are satisfactory.
 - The Board is requested to give some indication as to whether further development on sites 8,9 and 11 is acceptable in principle.

6. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION

No response received.

7. OBSERVATIONS

None

8. RELEVANT PLANNING HISTORY

PL04.233746 (08/9527) – permission refused on appeal for demolition of 2 houses and construction of 65 houses with ancillary services including provision of two below ground foul sewage pumping stations on three sites, one which incorporated the appeal site. Two reasons were cited which can be summarised as follows:

1. The proposal constituted a significant expansion of the settlement of Myrtleville which has no wastewater treatment system. The Board was not satisfied that the drainage proposals, which constituted a partial solution to the drainage of Myrtleville, represented a sustainable approach to servicing the proposed development.
2. Inadequacies of sightlines at the junction of the L6525/R612 and that the additional traffic would endanger public safety by reason of traffic hazard.

PL04.238635 (10/08248) – permission refused on appeal for demolition of 2 houses and construction of 58 houses with ancillary services including foul sewage pumping station on two sites, one which incorporated the appeal site. One reason was given

which was comparable to the first cited in appeal case PL04.233746 summarised above.

9. DEVELOPMENT PLAN PROVISIONS

The **Carrigaline Electoral Area Local Area Plan, 2011** refers.

The site is within the settlement boundary of Crosshaven and Bays

Objective DB-01(c) – any new development in the Bays area will be restricted to low density development, principally individual dwellings, infill development or the appropriate redevelopment or refurbishment of existing dwellings provided satisfactory sewage disposal arrangements can be made.

Objective DB -01 (d) – individual dwelling units in the Bays area shall be served by a private individual treatment unit and shall provide a sustainable properly maintained private water supply. Such proposal will be assessed in line with the appropriate EPA code of practice and will have regard to any cumulative impacts on water quality.

10. ISSUES AND ASSESSMENT

I consider that the issues arising in the case can be assessed under the following headings:

1. Planning History and Principle of Development
2. Access
3. Effluent Disposal
4. AA - Screening

10.1 Planning History and Principle of Development

The applicants have previously sought to develop their landholding for multiple housing developments served by a rising main and pumping of effluent uphill and over land for a distance to Crosshaven. Planning references PL04.233746 & PL04.238635 refer. In both instances the Board refused permission on the grounds that the proposals constituted a significant expansion of the settlement of Myrtleville which has no wastewater treatment system. The Board was not satisfied that the drainage proposals, which constituted only a partial solution to the drainage of Myrtleville, represented a sustainable approach to servicing the proposed development.

Subsequent to the said decisions the Carrigaline and Electoral Area LAP was adopted. The site is within the settlement boundary of Crosshaven and Bays served by a narrow local road characterised by a significant level of one off housing. The LAP states that the preferred scale of development outside the development boundary of Crosshaven is low density development, principally individual units and recommends against large and medium scale development.

To counter the previous reasons for refusal the approach now adopted by the applicant is the development of individual sites on the landholding within the delineated settlement boundary. I note that the applicants own further lands outside the delineated settlement boundary as shown on the map accompanying the appeal. They consider this approach to comply with objectives DB-01(c) and (d) of the LAP, namely that any new development in the Bays area will be restricted to low density development, principally individual dwellings which shall be served by a private individual treatment unit.

From the details accompanying the application and appeal an indicative plan has been prepared by the applicant for the prospective development of their lands in this manner with 17 dwellings on two separate plots delineated. Whether this approach to housing provision was what was intended by the LAP provisions in terms of *low density development principally individual dwellings* is a moot point.

Three sites have secured permission along the local road within the applicants' landholding with a fourth to the south-west (accessed from the spur off the local road) securing permission for replacement of an existing house. In addition I noted a further dwelling (5th) approx. 200 metres to the east of the appeal site which was nearing completion on day of inspection.

I submit that such a piecemeal approach to development with one off dwellings served by effluent treatment plants as advocated in the LAP runs contrary to the principles of proper planning and sustainable development. It may be largely dictated by the absence of any wastewater treatment options for the area and that the principle of clustering development is preferable allowing for the potential for connection to a public scheme at some stage in the future. Notwithstanding same and taking the application as sought which pertains to one dwelling, only, the principle is acceptable in the context of the above policy considerations. However I submit that the acceptability of the proposal in terms of settlement policy is predicated on other planning and environmental considerations being satisfied.

10.2 Access

The local road serving the site is narrow and is incapable of facilitating unimpeded two way traffic. The issue of road widening constituted the issue of substantive concern for the planning authority on which it refused permission, albeit on the basis of surface water disposal.

As per the details provided in response to the clarification of further information request the applicants are proposing to setback the northern roadside boundary along the length of the lands in their ownership for a distance of approx. 350 metres to the junction with the R612 thereby increasing its width to between 6.5 and 7 metres. There is no doubt that such a proposal is based on the premise that further sites along the road would be brought forward for development. However as stated above the proposal before the Board is for a single dwelling, only, and whilst the indicative plan is provided for the Board's information it is not before it for comment or adjudication. To allow for such road improvements in this instance cannot be construed as a tacit acceptance of further site development. The proposal as detailed, in itself, would allow for unimpeded two way vehicular movements between the site and the junction with the regional road and is acceptable. Sufficient detail has been provided as to the roadside drainage disposal in terms of soakaways and is also acceptable.

Taking into consideration the level of existing and permitted development along the local road and the current LAP policies in terms of further development in the area the provision of pedestrian and lighting facilities does not appear to have been considered save for reference made to same in the Area Engineer's reports.

10.3 Effluent Disposal

The dwelling is to be served by a wastewater treatment system and raised polishing filter. As per the Site Characterisation Form a T percolation test could not be carried out due to the absence of depth between the ground surface and the bedrock (0.4 metres). The result of the P test is 5.58. This is just above the limit of 5 set in the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses. It is worth noting that the results of two of the three holes in the said P test gave a value of below 3 with the results of the 3rd raising the average. I also note that the site vulnerability is rated as extreme and the aquifer is locally important.

I would have very serious reservations as to the concentration of systems in an area which has very quick draining soils. Whilst the LAP may advocate such piecemeal, individual housing development the relevant objective (DB-01 c) clearly states that this is subject to satisfactory disposal arrangements being made. In my opinion the

level of existing and permitted development in the immediate vicinity undermines confidence in securing such provision.

I acknowledge that a refusal on such grounds puts the applicants in a difficult position regarding the development of their lands within the development boundary especially in view of the fact that they have endeavoured via the previous applications to provide for a system for their lands entailing the pumping of untreated sewage to Crosshaven and onwards. This provision was not acceptable to the Board. However to allow for such a proliferation of effluent treatment systems in such an area would give rise to concerns in terms of public health and I do not consider that compliance with the settlement location policy which effectively results in a piecemeal approach to development in this location contrary to the principles of sustainability, cannot be seen to override the environmental considerations. I therefore recommend a refusal of permission in this regard.

10.4 AA- Screening

The site is c.2.3km to the south-east of the 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. Detailed objectives have been drawn up for the site 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 small scale nature of the development, the location of the site within the delineated development boundary of Myrtleville, the level of existing and permitted development in the immediate vicinity, and the relative distance 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 number 004030 and in view of the site's conservation objectives. An appropriate assessment (and submission of a NIS) is not therefore required.

11. CONCLUSIONS AND RECOMMENDATION

In conclusion I submit that the fact that the site is within the settlement boundary for Crosshaven and Bays as delineated in the current LAP for the area cannot be considered to have primacy over environmental considerations, in this instance public health concerns arising from concentration of effluent treatment systems where fast draining soil conditions prevail. Thus having regard to the

documentation on file, the grounds of appeal, a site inspection and the assessment above I recommend that permission for the above described development be refused for the following reasons and considerations.

REASONS AND CONSIDERATIONS

Notwithstanding the location of the site within the development boundary of Crosshaven and Bays as delineated in the current Carrigaline Electoral Area Local Area Plan, 2011, the Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal and having regard to the existing and permitted development in the vicinity, that the proposal would not result in an excessive concentration of development served by septic tanks and proprietary wastewater treatment systems or that effluent from the development can be satisfactorily treated and disposed of on site notwithstanding the proposed use of a proprietary wastewater treatment plant. The proposed development, would, therefore, be prejudicial to public health and would be contrary to current development plan objectives DB-01 and DB-02 which requires that proposals for individual dwelling units be subject to satisfactory sewage disposal arrangements being made.

Pauline Fitzpatrick
Inspectorate

August, 2016