



An
Bord
Pleanála

Inspector's Report PL04.246957.

Development	Construct a single storey house and garage at Barnahely, Ringaskiddy, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	16/04458.
Applicant(s)	Henry McSorley.
Type of Application	Planning permission.
Planning Authority Decision	Grant permission.
Appellant(s)	Marie O'Sullivan.
Type of Appeal	Third party versus decision.
Observer(s)	None.
Date of Site Inspection	28 September 2016.
Inspector	Stephen Rhys Thomas.

1.0 Site Location and Description

- 1.1. The appeal site is located in the village of Ringaskiddy, approximately 4 kilometres east of Carrigaline, Co Cork. The village of Ringaskiddy is a linear settlement which fronts onto a main street, beyond which is the Ringaskiddy ferry terminal and harbour infrastructure.
- 1.2. The appeal site is positioned behind a terrace of houses which front onto Main Street. The entrance to the appeal site is taken from a cul-de-sac road which serves approximately 10 dwellings. The access roadway rises up from Main Street and consequently the appeal site is higher than adjacent houses to the north. Houses to the north are single storey traditional terraced cottages and a more modern terrace of two storey townhouses. All have small rear yards backed by a retaining wall.
- 1.3. The appeal site is level, with a boundary to the south which comprises a mature hedge and trees. The roadside boundary is not well-defined, being for the most part a wide grass verge. The boundary treatment to the north, adjacent to existing properties which sit at a lower level, is open in parts with temporary open grill wire security fencing and, in the vicinity of the appellant's property, the boundary comprises mature hedging and trees.
- 1.4. There is a variety of household items on the site, such as kitchen cupboards, baths and other items strewn across the site.
- 1.5. Appendix 1 contains photographs of the site and surrounds.

2.0 Proposed Development

- 2.1. Permission is sought for:

- The construction of single storey dwelling with a roof ridge height of 5.1 metres and a gable roof profile. Floor area amounts to 116 sq.m.
- The construction of a 21 sq.m. single storey domestic garage with a gable roof profile, 3.8 metres in height to the roof ridge.
- Construct a new vehicular entrance with 1.2 metre high concrete block boundary wall to the front and a 1.8 high concrete block wall to all other boundaries.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 11 conditions, relevant conditions are summarised below:

- Condition 1, that the dwelling should be in accordance with revised house plans submitted 6 and 31 May 2016.
- Condition 3, that finished floor levels should be in accordance with revised plans.

3.2. Planning Authority Reports

3.2.1 Planning Report

Basis for the planning authority decision. Report includes:

The initial Planner's report noted the third party submissions, the policy and planning history of the site and the relative changes in level which might result in overshadowing of neighbouring properties. Appendix B of the Planner's report includes an Appropriate Assessment Screening report, which concludes that potential impacts on the SPA have been ruled out. Additional information was

requested to ensure satisfactory car parking on site, extent of legal ownership of lands and clarity on the proposed site boundaries and retaining structures.

The second Planner's report recommended clarification of further information in relation to boundary treatment and any retaining structures.

The final Planner's report noted that the revised layouts, which show a 1.8 metre high timber fence screening structure and no retaining structures along the northern boundary, and recommended a grant of permission.

3.3. Other Technical Reports

Area Engineer Report – the initial report states that the surface water proposal is acceptable, however, proof of ownership should be requested with regard to the provision of adequate car parking. Conditions are recommended with regard to technical standards and the construction phase of development. The second report notes the applicant's submission with regard to ownership and recommends permission subject to previously stated conditions.

Irish Water Report – the report raises no objections to the proposed development, subject to the attachment of standard technical conditions.

3.4. Third Party Observations

There were two submissions. Issues raised are consistent with those outlined in the grounds of appeal.

4.0 Planning History

4.1. There is no relevant planning history for the appeal site.

Adjacent Site

- 4.2.1 **Planning register reference 13/4417**, 26 March 2014, permission granted for partial demolition of existing cottage and construction of ground and first floor extension to form a new dwellinghouse and construction of 4 no. two storey terraced townhouses to the rear.
- 4.2.2 **Planning register reference 07/5435**, 13 February 2008, previous permission for the above.

5.0 **Policy Context**

5.1. Development Plan

5.2. **Cork County Development Plan 2014-2020**

5.2.1 Section 14.3.3 Within predominantly built up areas, development proposals normally involve infill development, redevelopment or refurbishment or changes of use. It is important to recognise that this is part of the cycle of development or redevelopment in settlements that contributes to the character of towns. In many ways, this is more sustainable than continually encouraging growth to concentrate only towards undeveloped areas.

5.2.2 TM 3-3: Road Safety and Traffic Management

d) Ensure that all new vehicular accesses are designed to appropriate standards of visibility to ensure the safety of other road users.

5.2.3 SC 5-8: Private Open Space Provision

Apply the standards for private open space provision contained in the Guidelines on Sustainable Residential Development in Urban Areas and the Urban Design Manual (DoEHLG 2009) and Cork County Council's Design Guidelines for Residential Estate Development.

5.3. County Council's Design Guidelines for Residential Estate Development 2011

5.3.1 Garden Size (page 62) - All houses should have a rear private garden area. For 3 bedroom houses and larger, the minimum size is 60m², which is sufficient to accommodate most household activities and at the same time adequate to offer visual delight, receive some sunshine and encourage plant growth. For one and two-bedroom houses this minimum size may reduce to 48 m². In such cases a condition could be attached to any grant of permission requiring no extension or other development within the dwelling's curtilage without further planning permission, notwithstanding the exempted development provisions of the Planning and Development Regulations 2001.

5.4. Carrigaline Electoral Area Local Area Plan 2011 (Second Edition January 2015)

5.4.1 The appeal site is within the Ringaskiddy Dedicated Strategic Employment Centre and zoned for Town Centre / Neighbourhood Centre uses.

5.4.2 Development Boundary Objectives

DB-05. It is an objective that all new development be located within the development boundary of the town established by this plan and which defines the extent to which Ringaskiddy may grow during the lifetime of the plan.

DB-06. All new development shall be connected to the public water supply, the public waste water treatment system and shall make adequate provision for storm water disposal.

5.4.3 The specific town centre zoning objective for Ringaskiddy is:

T-02 This area denotes the existing built footprint of Ringaskiddy and any proposals for development within this core area should comply with the overall uses acceptable in town centre areas. Any future development should reflect the scale and character of the surrounding existing built up residential area.

5.4.4 The appeal site is located 55 metres from lands which are identified as; Area susceptible to Flooding: Zone A and B.

5.4.5 Lands to the east of the appeal site are subject to Objective I-09 - Port related industry. A transitional site, between the established residential use and industry/enterprise zoning; it is indicated as suitable for office use associated with port uses.

Appendix 1, relevant location and zoning maps.

6.0 **Natural Heritage Designations**

Cork Harbour SPA is located in the wider area of the appeal site, approximately 1 kilometre away to the north.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

The grounds of appeal can be summarised as follows:

- The site is restricted, the proposed development leaves very small separation distances (7 metres) and results in an overbearing appearance, which would result in a fall of property value.
- The development should comply with the 5.4. Carrigaline Electoral Area Local Area Plan and does not comply with Cork County Council Residential Estates Guidelines, in terms of high standards in design and quality. Rear garden space is deficient.

- The appellant's rear garden space is minimal and backs onto the site behind, which is elevated, a 1.8 metre high fence will impact greatly on daylight and create excessive overshadowing.
- Concerns with regard to the viability of the site to manage surface water adequately and the resultant risk to the appellant's property from surface water flooding.
- The appellant disputes the ownership of the applicant's lands, and asserts rights to land to the west of their property.

7.2. **Planning Authority Response**

The planning authority state no further comments to make on the appeal.

7.3. **First Party Response**

None.

7.4. **Observations**

None.

8.0 **Assessment**

8.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Carrigaline Electoral Area Local Area Plan 2011
- Residential Amenity
 - Privacy, overshadowing and overbearing appearance

- Rear garden space
- Flooding
- Land Ownership
- Appropriate Assessment

8.2. Carrigaline Electoral Area Local Area Plan 2011

8.3.1 The operational Local Area Plan is the Carrigaline Electoral Area Local Area Plan, 2011. In accordance with the zoning map for Ringaskiddy the appeal site is located within a designated Town Centre / Neighbourhood Centre.

Therefore, having regard to the location of the proposed development I would consider that the principle of residential development would be acceptable provided that the proposal has adequate residential amenity and adequately safeguards the residential amenities of the adjoining properties.

8.3. Residential Amenity

8.3.1 Privacy, overshadowing and overbearing appearance

8.3.2 The appellant raises concern with regard to the proximity of the dwelling to their property and the resultant impact of overshadowing, overbearing appearance and loss of privacy. I note that the rear of the appellant's property is already very restricted, as a result of the sloping nature of the site which presents a bank/wall in very close proximity to the gable end of their property and the existence of mature hedging and trees atop the bank. The residential amenity associated with the rear of the appellants dwelling is minimal and the enjoyment of this space is extremely limited.

8.3.3 The closet element of the proposed dwelling will be a side wing extension which rises to 4.3 metres and will be located approximately 4 metres from the boundary with the appellant's property. In addition, a 1.8 metre high concrete post and closed

panel timber fence, the result of a request for further information by the planning authority, will serve as the boundary treatment between properties. It is this fence element which could present the most tangible impact of overshadowing or overbearing appearance, not the proposed dwelling further to the south. Therefore, I do not consider it necessary to alter the position of the proposed dwelling. My experience of the rear space of the appellant's property is one of darkness and damp as a result of the earthen bank and profusion of hedging, vegetation and mature trees. The erection of a 1.8 metre high concrete post and closed panel timber fence, will not in itself create a disamenity to the appellant's property. Therefore, I consider that the erection of a 1.8 metre high concrete post and closed panel timber fence and a single storey dwelling will neither create an undue amount of overshadowing, nor will it be perceived as an overbearing appearance. The proposal is therefore acceptable.

8.3.4 A portion of the proposed single storey dwelling with a ridge height of 4.3 metres will be located approximately 4 metres from the common boundary between properties and a ground floor bedroom window on a recessed elevation will be located approximately 6 metres from this boundary. In addition, a 1.8 metre timber fence is proposed along the boundary to the north. Therefore, I do not consider that overlooking will result from the bedroom window on the northern elevation, as its view will be blocked by the 1.8 metre high boundary fence.

8.3.5 Rear garden space

8.3.6 The appellant notes the size of the private amenity space afforded to the proposed dwelling and questions its compliance with County Development Plan standards. The County Council's Design Guidelines for Residential Estate Development states that minimum rear privacy space shall be 60 sqm for new dwelling development. The applicant proposes approximately 66 sqm and is therefore acceptable in terms of area. I note however, that the depth of the garden is approximately 6 metres and a domestic garage is also proposed. In order to ensure the preservation of

residential amenity for the future occupants of the proposed dwelling I consider that the relevant exempted development rights should be curtailed.

8.4. Flooding

The appellant is concerned that surface water from the proposed development could flow onto their property. The proposed method to manage surface water generated by the development is detailed as soakpits. However, no documentation or calculations accompany the application. I consider that surface water can be adequately managed on site and a suitable condition should be attached to ensure compliance with the technical requirements of the planning authority. Though the site is located adjacent to lands susceptible to flooding as mapped in the LAP, no specific issues were raised in the assessment by the planning authority, nor has any documentation been submitted with the planning application or appeal. The primary issue in this instance is the management of surface water on the site. This can be addressed by condition.

8.5. Land ownership

The appellant has raised an issue over the ownership of the lands to the west of the site and what right the applicant has to cross over and develop the land. Issues to do with ownership are legal matters and access to sites is a for agreement between relevant parties.

8.6. Appropriate Assessment

8.6.1 Cork Harbour SPA is located to the north and north west of the appeal site. In this context and having regard to the nature and scale of the development it is proposed to construct as part of an established village environment, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

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

10.0 Reasons and Considerations

10.1. Having regard to the provisions of the Cork County Development Plan 2014-2020, the Carrigaline Electoral Area Local Area Plan, 2011, to the nature and scale of the proposed dwelling house and to the pattern of development in the area, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 submitted on the 6 day of May 2016 and by the further plans and particulars received by the planning authority on the 31 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling and garage 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 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. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwellinghouse without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwelling.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

6. 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.

Stephen Rhys Thomas
Planning Inspector

12 October 2016