



An
Bord
Pleanála

Inspector's Report

Development: Demolition of garage and construction of granny flat with associated site works at Casino, Ardbrack, Kinsale, Co. Cork.

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 16/5065

Applicant: Hilda O'Shea

Type of Application: Permission

Planning Authority Decision: Grant Permission

Appellant(s): Tom and Colette O'Leary, Gerald and Susan Hogan, Frank and Margie Hill.

Observers: None

Date of Site Inspection: 15th September 2016

Inspector: **Kenneth Moloney**

1.0 SITE DESCRIPTION

The appeal site is located in Ardbrack which is located to the east of the Kinsale town centre. Ardbrack is elevated in relation to the town centre and enjoys views over Kinsale Harbour and Jame's Fort.

The appeal property comprises of an established detached house, outdoor swimming pool and detached garage. The appeal site has its own vehicular access onto the public road i.e. Ardbrack Road. The gradient of the site slopes downwards steadily from the public road to the south of the site. The detached house on the appeal site is a split level property, i.e. single storey in height at the northern side of the site and two-storey overlooking Kinsale Harbour.

The overall size of the appeal site is 0.0185 ha (0.045 acres) and the shape of the appeal site is approximately square. The appeal site has established mature vegetation situated to the front of the subject site.

The neighbouring site to the immediate east of the appeal site is currently a construction site and at the time of my site inspection the construction of a house was underway.

2.0 PROPOSED DEVELOPMENT

The proposed development is for the demolition of an existing garage and the construction of a two-storey granny flat.

The existing garage has a floor area of approximately 46 sq. metres and the proposed granny flat has a floor area of approximately 142 sq. metres. The floor plan of the proposed granny flat comprises of a single bedroom at lower ground level and a kitchen / living and dining area at ground floor level. The appeal site is a sloping site and the proposed granny flat has a single storey height to the front (north) and two-storey height to the rear (south).

The overall height of the single storey element of the proposed building is approximately 3.1 metres above ground floor and the overall height of the two-storey component of the two-storey building is approximately 7.4 metres above ground level.

The predominant finish for the proposed development is tegral dark grey fibre cement fascia and gutter with fibre glass capping.

3.0 PLANNING AUTHORITY'S DECISION

The Planning Authority decided to grant planning permission subject 5 conditions. The conditions are standard for the development proposed.

Internal Reports: There is one internal report on the file:

- Area Engineer; Additional information sought in relation to car parking.

Objections: There are five third party objections on the planning file and the issues raised have been noted and considered.

Submissions: There is a submission from Irish Water who has no objections.

4.0 PLANNING HISTORY

- L.A. Ref. 14/6181 – Permission **refused** by An Bord Pleanala (appeal ref. 244647) for a granny flat for two reasons.
 1. The proposal by reason of height and design would adversely affect the character of the designated Scenic Route S61.
 2. The proposal given its proximity to the south eastern boundary of the site, would appear to be overbearing and overlooking of an adjoining property to the south east.

5.0 DEVELOPMENT PLAN

The operational development plan is the Cork County Development Plan, 2014 – 2020.

Section 5.7.12 and Section 5.7.13 sets out guidance in relation to granny flat developments.

6.0 KINSALE DEVELOPMENT PLAN

In accordance with the Kinsale Development Plan, 2009 – 2015, the appeal site is zoned ‘established residential’.

The objective of this zoning provision is *‘to protect, preserve, enhance and develop existing residential areas, to support appropriate infill residential development, to provide new and improved ancillary community, social and recreational facilities’*.

It is further stated that the purpose of the zoning objective is to protect and preserve existing residential uses whilst enabling infill residential development at a density that is consistent with the character of the area and meets the needs of the population. It is also stated that infill development is considered acceptable provided that careful consideration is given to design, privacy, overlooking, daylight / sunlight and aspect.

Section 7.10.3 sets out guidance in relation to granny flats.

7.0 GROUNDS OF APPEAL

Tom and Colette O’Leary, third party, lodged an appeal and the grounds of appeal are summarised as follows:

Background

- There is no objection to an appropriate sized building.
- The current proposal is unacceptable given that it will obstruct the appellant’s view of the harbour.
- The proposal will also obstruct the public view from the public road.
- The appellants had no objections to recent developments in the local area including L.A. Ref. 14/5917.
- The appeal site had a previous proposal for a granny flat which An Bord Pleanala refused permission.
- The extensive overhanging roof area and the footprint of the proposal have been increased in relation to the previous development.
- The proposal is visually unacceptable.

Visual Issues

- There are provisions in the Kinsale Town Development Plan which recognise the need to protect the views from and into Scenic Walks (LVA 2) and James Fort (LVA2).
- It is considered that the proposed development is out of character with Ardbrack Road.
- It is submitted that due to high walls and mature vegetation that views from the public road towards the harbour are limited and restricted to views from vehicular entrances. The proposal will obstruct views of the harbour from the public road.

Scale

- The footprint of the proposed building has increased from that previously proposed.
- The large slab roof has also increased.
- The roof overhangs the building by 1-2m at the seaward side of the building.
- The chimney is a significant size at 1.5m wide.
- The roof area has increased in size from 125 sq. m. to 141 sq. m.
- The overall height of the front elevation of the roof has increased from 8.47m to 8.5m.

Landscaping

- The proposal involves the removal of significant trees making the proposed house even more prominent.
- The roots of the remaining trees will be exposed and thus putting them at risk.
- This will have an adverse impact on the landscape.

Orientation of the building

- It is submitted that the established contours in the local area are east – west however the contours of the proposed development are north – south.

Traffic

- There is a school located across the road from the proposed development.
- The public road is not narrow and the resultant impacts from traffic and parking are significant.
- Additional traffic from the proposed house will exacerbate the problem.
- A proposal for an extension to a nearby school has been rejected due to traffic considerations.

Other Important Aspects

- There is inadequate car parking provision for the proposed development.
- It is submitted that the scale of the proposal is significant as the floor area of the proposed granny flat is only slightly larger than the existing house.

J. & N. Murphy, Consulting Engineers, lodged an appeal on behalf of **Gerald and Susan Hogan**. The main grounds of appeal are summarised as relating to the following; -

- The visual setting of Kinsale is unique and there are protected views including Scenic Route R62 and S61.
- The appeal site is visible from James Fort (pNHA 10160) across the channel.
- The entire area is designated 'Scenic Landscape' in accordance with the provisions of the County Development Plan.
- The Kinsale Town Development Plan protects views from Scenic Walks and Views (LVA2) and James Fort (LVA4).
- The appellants are concerned with the loss of their amenity and the adverse visual impact on the town and harbour.
- The Development Plan does not refer to views from the water which is important.
- The proposal will have a direct adverse impact on Scenic Route S61.
- It is contended that the proposed development is entirely incongruous intrusion on the landscape.
- Given the appellants reside across the road from the appeal site any development may impact on their established views over the harbour.
- The appellants do not object to every development and this was the case in relation to L.A. Ref. 14/5895 and L.A. Ref. 14/5917.
- It is submitted that the proposed building is significantly higher than adjacent buildings and the existing building.
- It is submitted that the proposed height is unacceptable.

- It is submitted that the ridge of most houses on the harbour side of the public road are level with public road or lower than the public road.
- The proposed front elevation is unchanged from that refused by An Bord Pleanála.
- The floor area of the proposed building has been slightly reduced however the footprint has increased in area.
- It is submitted that when all the roof overhangs are taken into account then the overall floor area of the proposed development is 140 sq. metres.
- The scale of the proposed chimney is large.
- It is submitted that having regard to the difference of floor areas from the proposed granny flat to that previously proposed then it can be hardly described as a drastic reduction in scale.
- The proposed development will result in the removal of established landscaping and will almost certainly damage existing landscaping to be retained.
- It is submitted that the orientation of the proposed house is in complete contrast with all other established houses.
- It is submitted that the existing sightline provision from the appeal site are poor.
- The centre line gradient of the entrance is circa. 1.5 which is dangerously steep.
- It is unknown how the established vehicular entrance can be improved.
- It is submitted that the car parking provision and the turning facilities are limited.
- It is speculated that the proposed development would result in the future subdivision of the site.
- It is submitted that the proposed development is not consistent with Section 5.7.13 of the County Development Plan which requires granny flats to be integrated visually with the existing dwelling and that ancillary units should not adversely impact on established residential or visual amenities.
- The validity of the application is questioned as it is argued that the applicant owns several properties in both Cork City and Kinsale and the need for a retirement home is questionable.
- The health issues of the applicant are noted however it is submitted that the proposed multi-storey dwelling, the size of the proposed lift and car parking provision are not conducive to the applicant's health concerns.
- It is submitted that the sites in the immediate area of the appeal site are all single house sites and the proposed development would set an undesirable precedent.
- It is submitted that having regard to inadequate car parking provision, the unprecedented number of stories and the potential subdivision of a site that the proposed development represents overdevelopment of the site.
- It is submitted that the floor area of the proposed granny flat is not representative of an appropriate scale.

- It is submitted that the height of the proposed building which is illustrated as 8.470 metres actually measures 7.55 metres.
- The planner's report is questioned in particular the references to his description in relation to the scale of the proposed development.
- It is submitted that there is a significant amount of common ground between the current proposal and the previous proposal appeal ref. 244647.

Hogan, Architecture Urban Design, lodged an appeal on behalf of **Frank and Margie Hill**. The main grounds of appeal are summarised as relating to the following; -

- The height and design of the proposed granny flat would seriously injure the visual amenities from Scenic Route S61.
- It is submitted that the proposed development does not address any of the concerns of the previous refusal by An Bord Pleanala.
- It is submitted that there is no reduction in the seaward elevation (west facing) over that previously refused permission.
- The comparison drawing submitted by the applicant is not the final drawing refused permission by An Bord Pleanala.
- Figure no. 1 illustrates the actual relationship of scale between the original refused dwelling and that currently before the Board.
- The following is also noted;
 - The proposed granny flat is 4 metres higher than the appellant's new property under construction. This difference in height is out of character.
 - The ground floor area (41.85 sq. metres) of the proposed granny flat is higher than the appellant's ground floor area (40.37 sq. m.) which is under construction.
 - The balcony is 1.2m higher than both adjacent buildings.
 - The proposed granny flat is over three times closer to the shared boundary than the appellant's property.
 - The proposed balcony is 2 metres from the common boundary whereas the appellant's balcony is 7 metres from the boundary.
- The appellant's house was advised at pre-planning to relocate the house further from the boundary and reduce the height. As such the design was revised accordingly. The proposed development does not address these concerns in relation to impacts on residential amenity.
- It is contended that the design of the proposed dwelling is identical to the previous proposal save the roof pitch. In the previous proposal the roof was pitched however in the current proposal the roof is flat.
- The location of the proposed granny flat remains unchanged and therefore fails to address the previous refusal reason. The previous refusal reason stated that the proposed development would cause adverse impacts such as overlooking and overshadowing of adjoining residential amenities.
- It is submitted that the new house under construction in the appellant's site is 3m closer to the common boundary and therefore the proposed granny flat will not address overshadowing concerns.

- It is submitted that the volume of the proposed building contributes to overshadowing.
- It is submitted that the seaward facing elevation causes the most amount of overshadowing and this elevation has not improved from the previous application.
- It is contended that the proposed granny flat seriously overlooks the appellant's private garden space.
- The proposed granny flat would also look directly into the appellant's contemporary dwelling which includes a large amount of glazing.
- The proposed balcony, given its height, would overlook the appellant's glazed roof.
- It is submitted that in the previous application the planning inspector considered that the lack of screen planting provided along the boundary contributed to overlooking. The proposed development does not address this issue as no screen planting is provided by the applicant.
- The second reason for refusal in the previous application related to height, design and proximity to south eastern boundary. The current proposal is the same height and in the same location to the common boundary line.
- The applicant's have increased the depth of the proposed granny flat over that previously refused permission.

8.0 RESPONSES

First Party Response

The following is the summary of a response submitted by the applicant;

- It is submitted that the local authority would have invalidated the planning application if they considered the proposal was not a granny flat.
- The floor area of the current proposal is 142 sq. metres and this is reduced from the previous proposal which was 182 sq. metres.
- The applicant is prepared to lower the roof of the southern section by 0.5 meters and it is requested that this is included as a planning condition if required.
- The purpose of the overhanging roof is to reduce sunlight to the granny flat and thus reduce potential overheating.
- Neighbouring properties all seem to have overhanging roofs.
- The neighbouring property to the east of the appeal site has a floor to ceiling height of 10.5 feet.
- It is contended that the visual impact of the proposed granny flat with its narrow frontage is much less than the neighbouring house to the east which has a wide frontage.
- The planner's report indicates that ridge height is not relevant in this case.
- The proposed roof form of the granny flat arose from the lie of the land and the backdrop of trees.

- The upper floor of the proposed granny flat has been changed and the height reduced and the floor space reduced.
- There is not set distance for buildings to side boundaries.
- It is submitted that habitable rooms are not overlooked.
- The proposed granny flat replaces existing windows of the garage with windows.
- The reason for the location of the proposed granny flat is due to car parking and existing site layout.
- It is not possible to move the proposal further east without impacting on views from the gateway and existing parking arrangements.
- The proposed annex on the adjoining site to east will be closer to the boundary than the proposed dwelling.
- The building line of the proposed granny flat is well below that of the adjacent house to the east.
- There is a single low window orientating to the east and this window is for light purposes and can be obscure glazing.
- The eastern elevation offers a neutral elevation to the appellant's property.
- There will be no impact on privacy.
- There is space between the granny flat and the boundary to provide for screen planting.
- A condition of the permission for the adjoining house was to provide screen planting along the common boundary line.
- A planning condition requires that placing of a steel timber screen on the appellant's balcony. This will enhance the privacy for the swimming pool and patio on the applicant's site.
- The proposed granny flat will not interfere with the amount of light reaching the appellants property or impact on their views of the harbour.
- The appellant's property overlooks the applicant's swimming pool and patio. This will be addressed by planting to be provided by the appellant.
- Cork County Council have made the argument that the proposal will have no adverse impacts on views from Ardback Road.
- The proposal will have no adverse impact on current views of the harbour enjoyed by neighbours.

Third Party Response

The following is the summary of a response submitted by the agent representing Frank and Margie Hill;

- It is contended that the proposed development before the Board is no different than that previously refused permission under L.A. Ref. 14/06181 and appeal ref. 244647.
- The respondent is concerned that should permission be granted then the future of the site will be subdivided. The subdivision of the site will have adverse impacts on established residential amenities and would set an undesirable precedent for other developments in the local area.

- It is considered that the proposed development site is wholly inappropriate given the sensitive nature of the site.
- It is considered that at the very least the following measures should be included;
 - The height of the granny flat should be lowered to have a maximum height in line with recently permitted dwellings, i.e. L.A. Ref. 14/05895 and L.A. Ref. 14/5917.
 - Relocated north westwards to improve the relationship with the established dwelling and reduce the impact on the neighbouring property.
 - That the proposed balcony be removed or lowered so that its height is consistent with neighbouring balconies and is fitted with a permanent screen on its south-eastern side to prevent overlooking.

9.0 ASSESSMENT

The main issues to be considered in this case are: -

- Principle of Development
- Scenic Views
- Impact on Residential Amenity
- Residential Amenity
- Car Parking Provision

9.1 Principle of Development

The proposed granny flat will replace an existing single storey garage on the appeal site.

I would note that both the Kinsale Town Development Plan, 2009 – 2015, and the Cork County Development Plan, 2014 – 2020, contain guidance in relation to granny flat developments.

Section 7.10.3 of the Kinsale Town Development Plan, 2009 – 2015, states that the principle of a granny flat is acceptable provided;

- a. that there is adequate space on the site to accommodate the proposed development,
- b. that the floor area of the proposed granny flat shall not exceed 25% of the floor area of the existing house, and,
- c. there shall be an internal door between the new and proposed accommodation.

The Cork County Development Plan criteria for granny flat developments is generally more relaxed. It is stated that a separate unit, i.e. detached from the main dwelling, within the site will be considered.

A previous planning application on the appeal site for a granny flat was refused permission on the grounds of adverse visual impact and adverse impacts on established residential amenities.

On the basis of policy provisions the principle of the proposed development is generally acceptable.

9.2 Scenic Views

The Board refused permission for the previous proposal (appeal ref. 244647) on the basis that the proposal would have an adverse impact on the County Development Plan Scenic Route S61. S61 (Ardbrack Road) is the local road situated immediately to the north of the appeal site.

The relevant policy provision in the County Development Plan is 'Policy GI 7:2 Scenic Routes' and this policy states it is an objective to '*protect the character of those views and prospects obtainable from Scenic Route and in particular stretches of scenic routes that have very special views and prospects identified in this plan*'. The objective of S61 is to protect views of Kinsale Harbour from Ardbrack Road.

The appeal site is also located within a designated High Value Landscape in accordance with the provisions of the Cork County Development Plan, 2014 – 2020. Section 13.6.5 of the County Development Plan states in relation to high value landscapes that these landscapes '*are vulnerable landscapes with the ability to accommodate limited development pressure. In this rank landscape quality is at a high level, landscape elements are highly sensitive to certain types of change. If pressure for development exceeds the landscape's limitations the character of the landscape may change*'.

In considering the visual impact of the proposed development I will firstly consider the difference between the granny flat which was refused permission in the previous application (appeal ref. 244647) and the current proposal before the Board.

The previous proposal was effectively a 3-storey structure comprising of lower ground floor, ground floor and a first floor level. The scale of the proposed development has been reduced in relation to the previous proposal. An important drawing in considering the visual impact of the proposed development is the drawing entitled 'Site and Roof Plan' (drawing no. 01). This drawing effectively outlines the footprint of the existing garage in relation to the proposed granny flat. It is evident from this drawing that the proposed granny flat is significantly larger than the existing garage on the appeal site.

I would acknowledge that Scenic Route S61 is designated due to its views over the harbour from the Ardbrack Road. However much of these views from the public road, i.e. Ardbrack Road, are restricted due to mature vegetation and high walls and are only available via vehicular entrances. Notwithstanding this it is my view that the proposed granny flat would materially alter the view from the public road given the scale of the proposal, in particular the north-western elevation, and also given the extent of mature vegetation proposed to be removed from the appeal site.

In addition the proposed development, should it be granted permission, would set an undesirable precedent for other such development.

In relation to the view from Scenic Route S62 I would note that this allows for views from the regional road (R600) across the harbour towards the appeal site. I would note the concerns raised in the appeal submissions and these include the orientation of the proposed building. I would also note that in the previous report by the Planning Inspector (appeal ref. 244647) it was stated that due to the intervening distance that the proposed development would not have a significant impact on Scenic Route S62. The proposed development is smaller in scale than that previously refused permission and therefore I would also consider that the proposed development would not adversely impact on Scenic Route S62.

9.3 Impact on Residential Amenities

The proposed granny flat has a floor area of approximately 142 sq. metres and replaces an existing single storey garage with a floor area of 46 sq. metres. The proposal will have its most significant impact on the adjoining property to the east of the appeal site.

The scale of the proposed eastern elevation will be enlarged significantly compared with the existing garage. This larger elevation will, no doubt, have an impact on the adjoining residential amenities.

In terms of overshadowing the proposed development will have limited implications on the neighbouring property to the east given the orientation of the proposed granny flat in relation to the adjoining site to the east.

In terms of overlooking I would note that the eastern elevation of the proposed granny flat includes some windows however it is proposed that these windows will consist of obscure glazing and as such overlooking will not be an issue. The appellant is concerned with the potential for overlooking from the proposed balcony and the first floor level. I would consider that this is a genuine concern given the height of the proposed balcony in relation to the adjoining site and also the proximity of the proposed balcony to the adjoining site to the east. The proposed balcony is sizable in terms of floor area and would enjoy attractive views over the harbour and is therefore likely to be well used. I would consider that the proposed balcony offers a poor relationship with the adjoining residential amenities.

In terms of visual impacts I would consider that the proposed development would intensify the scale of the development on the appeal site and the proposal is double height as opposed to the single storey height of the existing garage. The proposed granny flat is situated along the boundary line and there is currently limited screen planting.

Overall I would consider that given the proximity of the proposed development to the boundary line, the proposed height, scale and

overlooking and perceived overlooking potential that the proposed development would have an adverse impact on the adjoining residential amenities. As such I would recommend to the Board that planning permission for the proposed development is refused permission.

9.4 Residential Amenity

In terms of residential amenity for future occupants the proposed development would in my view offer a good standard of residential amenity. The overall floor area of the proposed dwelling is 142 sq. metres which is sizable for a one-bedroom unit. The proposed development offers sizable private open space provision in the form of a balcony.

The aspect of the primary living area in the proposed dwelling is south facing with attractive views over Kinsale Harbour. Overall I would consider that the standard of residential amenity on offer for the future occupants is a high standard and acceptable.

9.5 Car Parking Provision

The Area Engineer, in his report, states that the proposed development shall have a minimum of 4 no. car parking spaces comprised of 2 no. spaces for the existing dwelling and 2 no. spaces for the proposed granny flat. I noted from a visual observation of the site that there would be adequate space for 3 no. car parking spaces and this would allow for 2 no. spaces for the existing dwelling and 1 no. space for the proposed granny flat. The local authority planner considers this acceptable and I would concur with this view.

9.6 Access

There is an established vehicular access to the appeal site and although the proposed development would intensify usage at the established vehicular access I would consider that the established sightline provision is acceptable. I would also note that the Area Engineer has no objections in relation to the sightline provision for the proposed development.

9.7 Appropriate Assessment

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a town suburban site and fully serviced location, no appropriate assessment issues arise.

10.0 RECOMMENDATION

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be refused for the reasons set out below.

REASONS AND CONSIDERATIONS

1. It is considered that the proposed two-storey detached granny flat by reason of its scale and positioning adjacent to the adjoining boundary lines of the adjoining residential property to the east, would have an overbearing impact, would be visually obtrusive, and would seriously injure the residential amenities of the neighbouring property to the east in terms of overlooking and perceived overlooking. As such the development would detract from the amenities of adjoining properties, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The proposed two-storey granny flat would, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the proposed two-storey detached granny flat on a prominent site, it is considered that the proposed development would seriously injure the amenities of the area, set an undesirable precedent for other such development and would be visible from a designated Scenic Route, i.e. S61, in accordance with the County Development Plan and would therefore be contrary to Policy GI 7-2 'Scenic Routes' of the Cork County Development Plan, 2014 – 2020. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector
20th October 2016