



An
Bord
Pleanála

Inspector's Report PL04.247258.

Development	Indefinite retention of rear patio doors, patio area and site boundary walls to holiday home.
Location	Hayman's Hill, Youghal-Lands, Youghal, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/5047.
Applicant(s)	Tom McGrath.
Type of Application	Retention permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Mary Goggin.
Observer(s)	None.
Date of Site Inspection	08/12/2016.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1 The subject site is located at Haymans Hill, in Youghal and comprises a small stripe of land which covers an area of 0.0122ha. The small piece of land is located at the top of a very steep embankment where the houses and their associated private open spaces to the east of the site at South Cross Lane, are at a significantly lower level.
- 1.2 The site is currently occupied by a small single storey structure which is indicated as being used as a holiday home. The structure has a floor area of approximately 32.5m² and comprises three rooms being an ensuite bedroom and open place kitchen/living/dining room. The house is serviced by a septic tank which is located in the small garden area and works have begun on a large paved patio area to the north west of the building. The building has a monopitch roof and a plaster finish.
- 1.3 Access to the site is via a very narrow and very steep cul-de-sac track which also provides access to three further houses. In addition, the access to one of the houses is over the narrow access path immediately to the west of the existing building. In addition, the subject site is completely hard surfaced with gravel and concrete. There is an existing timber shed located on the site and space for the parking of one car.
- 1.4 The Board should note that the works appear to be substantially complete and these works have been completed since the application for retention was lodged with the Planning Authority. The boundary treatment on site now also provides for a mixture of glazing (as per public notices), railings and plastered block walls. As the site was locked up, I could not gain access to the rear (east) of the building to photograph the patio doors, from the bedroom, for retention.

2.0 Proposed Development

- 2.1 Indefinite retention permission is sought for the rear patio doors, patio area and site boundary walls to holiday home, all at Hayman's Hill, Youghal-Lands, Youghal, Co. Cork.

3.0 Planning Authority Decision

3.1 Decision

Cork County Council decided to grant planning permission for the retention of the works subject to 6 conditions.

3.2 Planning Authority Reports

3.2.1 Planning Reports

The initial planning report considered the proposed development in terms of the planning history and context of the subject site, the details of the proposed development, structural stability, waste water and surface water issues and general amenity issues. The report concluded that FI was required with regard to a number of issues including as follows:

1. Structural issues
2. Finishes of the patio area and glazed panels
3. Surface water disposal issues.
4. Location of soakpit / percolation area

The applicant responded to the FI request providing an engineers report confirming that the proposed loads can be accommodated and will reduce the risk of collapse of loose materials into the adjoining property. In addition, clear glazing is proposed, a soakpit is to be provided within the patio area, covered with paving slabs.

The second and final planning report acknowledges the response to the FI issues and concludes that the key concern with the proposed development relates to its potential impact on neighbouring properties. It is considered that the response to the FI request addresses these concerns. The report concludes recommending that permission be granted for the proposed development.

3.2.2 Other Technical Reports

The Area Engineer submitted a report in relation to the proposed development requesting the issues be addressed by way of further information. A second report is on file advising no issues following the response to the further information request.

Irish Water advised no objection to the proposed development.

3.3 Prescribed Bodies

None.

3.4 Third Party Observations

There are two third party observations noted as follows:

Ms. Derinell Kenefick: Raises issues relating to the structural stability of the site and cliff edge to accommodate the development, overlooking, surface water issues and potential pollution risk associated with the septic tank.

Ms. Mary Goggin: Raises issues as follows:

- Site boundary walls issues and concerns regarding the unfinished works carried out at the site.
- The installation of the rear patio doors has resulting in sewer pipes being exposed.
- Surface water management issues
- Septic tank concerns
- Dangers associated with the works carried out to date as no protection was put in place to prevent the escape of debris. 9 palm trees were removed along the boundary and it is requested that a sturdy arrangement be put in place to ensure protection for residents.

4.0 Planning History

4.1 **PA ref 159/1975:** Permission granted by Youghal Urban District Council for the construction of a dwelling

4.2 **PA ref P2/1989:** Permission granted by Youghal Urban District Council for the extension and conversion of an existing garage into a dwelling place.

4.3 **PA ref 15/4295:** Permission sought for retention and completion of side extension to holiday home. This application was withdrawn prior to a decision issuing.¹

¹ The Board will note the comments of the Planning Officer with regard to this application advising that the application was made on foot of enforcement action. Further information was sought by Cork

5.0 Policy Context

The site is located within the urban boundary of Youghal and the Youghal Town Development Plan, 2015 is the relevant policy document. The site is zoned residential.

6.0 The Appeal

6.1 Grounds of Appeal

This is a third party appeal against the decision of Cork County Council to grant planning permission for the development as described. The grounds of appeal reflect those concerns and issues raised during the Planning Authority's assessment of the development and are summarised as follows:

- Health and safety issues associated with the structural integrity of the site/development – Inadequate engineers report provided to deal with the issues raised.
- Surface water management issues– Inadequate engineers report provided to deal with the issues raised.
- The location and workings of the septic tank – the submission provides unsubstantiated information relating to the servicing of adjacent houses in the vicinity of the subject site including concerns regarding septic tanks and percolation area.
- Issues raised with regard to the defined site boundary and the legal boundary. The balcony as constructed encroaches the appellants property and the windows installed overlook her home.

There are a number of enclosures with this appeal.

6.2 Applicant Response

The applicant, through their engineer, has submitted a response to this third party appeal. The submission considers that the development as proposed is not in conflict with the proper planning and development of the area, nor does it have any

County Council at the time but was not responded to. An Enforcement Notice issued to remove the unauthorised items.

potential negative impact on any existing residents in the area. It is requested that the decision of Cork County Council be upheld. The response is summarised as follows:

- Structural integrity assertions are rejected. Alleged lack of independence is also refuted.
- All surface waters will be retained within the site.
- The proposed works do not involve any alterations to or impact on the existing septic tank system.

6.3 **Planning Authority Response**

The PA has not responded to this appeal.

6.4 **Observations**

None.

7.0 **Assessment**

7.1 Having considered all of the information submitted with the planning application, together with the appeal documentation and responses, and having undertaken a site visit, I consider it appropriate to assess the proposed development application under the following headings:

1. The principle of the development
2. Visual & Residential Amenity Issues
3. Other Issues
4. Appropriate Assessment

7.2 **Principle of development**

7.2.1 The subject site is located within the town of Youghal on lands zoned for residential purposes. The site is currently occupied by a small residential property which is used as a holiday home and the proposed development seeks to retain alterations to this property. In principle, there is no objection to the proposed development in terms of compliance with zoning objectives for the site. I would note at this point that the nature of the development the subject of this appeal is for the retention of rear patio

doors, patio area and site boundary walls. The Board will be aware that the information presented as part of the appeal also advises that two windows were installed on the north eastern elevation as well as a lightweight balcony also on this elevation. The subject retention application makes no reference to these elements, which are subject to civil proceedings as advised. In the event of a positive decision issuing in this instance, it should be clear that no retention permission is permitted for these elements.

7.3 Visual & Residential Amenity Issues

7.3.1 The third party appellant has raised objections to the development, a number of which relate to the principle of the development as well as structural issues relating to the development and residential amenity issues. In terms of residential amenity issues, the Board will note the proposal to retain patio doors which appear to serve a small balcony off the bedroom of the building. It is suggested that these doors replaced a window at this location and the appellant submits that these works have resulted in overlooking of their property. There is no reference to the 'balcony' in the submitted documents, nor is it indicated on the submitted plans. Photographs have been submitted by the appellant which would suggest that the balcony as suggested exists. In terms of this element for retention, I would concur with the appellant in this regard. Certainly the patio doors at this elevation facilitate significant overlooking of the adjacent private open space, particularly with regard to the level differences between the properties. This element of the development for retention should be refused and the patio doors removed in the interests of protecting the residential amenity of adjacent properties.

7.3.2 Further to the above, a set of patio doors have been installed in the north western elevation to provide access to the newly constructed patio area. The patio is the subject of this retention application. Having regard to the information presented as part of the planning application, together with the PAs assessment, it is clear that notwithstanding the lodging of the planning application following enforcement action, the applicant has continued to work on the site. The patio area and boundary walls are practically complete. Indeed, changes have been made to the proposal and the as constructed elements do not reflect either the development sought or the conditions of the planning permission as per the decision of Cork County Council. This decision is the subject of this appeal.

7.3.3 I have no objection to the retention of the patio area in itself, and I do consider that, as constructed, it significantly overlooks the adjacent properties at a lower level. While I note the PAs requirements in terms of the screening however, I would not agree that clear glazing – or the railings as constructed – are an appropriate finish to protect the existing residential amenities of adjacent properties. Should the Board be minded to grant permission in this instance, opaque glazing or solid timber fencing should be required.

7.4 **Other issues**

7.4.1 As I could not gain access to the rear of the site, I cannot confirm if surface water issues have been dealt with in accordance with the PAs requirements either. While I have no real objections to the retention of the patio area, given that the applicant has not conformed with planning requirements to date, I have real concerns in this regard. The appellant has raised a number of concerns in relation to surface water disposal and I note condition 6 of the PAs grant of permission. While I have raised concerns above in terms of the applicants non-compliance with planning, I am satisfied that the issues raised can reasonably be dealt with as proposed by the applicants engineer.

7.4.2 With regard to the valid structural issues raised by the appellant, I am satisfied that the applicants engineer has certified the structural integrity of the site. While I accept the concerns raised in relation to the septic tank issue, I am satisfied that the nature of the development the subject of this appeal, has no bearing on the septic tank. That said, I would be concerned that the septic tank appears to have been built over. This is likely an issue for Cork County Council and I note that the Area Engineer has raised no objections to the development.

7.5 **Appropriate Assessment**

7.5.1 Having regard to the nature and scale of the proposed development and the nature of the receiving environment, together with the proximity to the nearest European site, 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.

8.0 Recommendation

- 8.1 Having considered all of the information available with regard to the subject appeal, and on the basis that I am satisfied that the applicant has, through their engineer, presented adequate information to certify the structural stability of the site, I consider that a split decision should issue. The principle of the development of the patio and site boundary is considered acceptable subject to compliance with conditions but the patio doors off the bedroom should be refused in the interests of protecting residential amenity of existing properties.

9.0 Reasons and Considerations

Having regard to Having regard to the provisions of the current Youghal Town Development Plan, 2015-2021, the presence of an existing dwelling on the site and the existing established use of the lands immediately adjacent to the subject site, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application together with the information submitted in the appeal, the Board is satisfied that the proposed development, being the retention of the patio and site boundary walls only, and subject to compliance with conditions, generally accords with the policy requirements of the Development Plan, and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars submitted on the 3rd day of August 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. The north eastern boundary of the site shall be finished in opaque glazing or a solid timber fence only to a minimum height of 1.5m. The current use of clear glazing, or railings as constructed, is not permitted. Full details shall be submitted for the written agreement of the Planning Authority within three months of this decision.

Reason: To prevent overlooking of adjacent properties in the interest of residential amenity.

3. Surface water shall be disposed of wholly within the site boundaries in accordance with the details submitted to the Planning Authority on the 3rd day of August, 2016. The works shall be certified by an appropriately qualified person as having been completed within three months of this decision. No surface water from the site shall enter adjacent properties or flow onto public roads.

Reason: In the interest of protecting adjacent properties and the proper planning and development of the area.

Second Schedule

Having regard to the limited size of the site and the varying site levels, it is considered that the retention of the patio doors, associated with the bedroom of the property, would result in an unacceptable level of overlooking of existing residential properties to the north east which are at a significantly lower level. The proposed development would, significantly impact on the existing residential amenities of the existing property and would therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

9th December, 2016