



An
Bord
Pleanála

Inspector's Report

PL04.248762

Development	Permission to construct a house
Location	Leaslands, Mallow, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	17/04185
Applicant(s)	Bernard & Eilish Finn
Type of Application	Planning Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Eileen O'Sullivan, Denis & Nora Farrissey and Hugh & Nuala Kelleher
Observer(s)	None
Date of Site Inspection	11/08/2017.
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The subject site is located in the northern area of the town of Mallow and within the development boundaries of the town. The site fronts onto Batchelors Walk and the small residential estate of Willowbrook is located to the north. Beyond Willowbrook, lies the railway line. The area is generally residential in its nature.
- 1.2. The site is currently unoccupied and somewhat overgrown. The Board will note that there was a concurrent application on the adjacent site to the north east for a two storey house which was granted planning permission by the Local Authority. The nature of housing in the area is mixed with both single storey and two storey houses evident. There is a single storey house, with a lower finished floor level given the sloping nature of the area, constructed immediately adjacent to the subject site to the west while the houses to the rear of the site are two storey semi-detached houses. The site slopes down towards the rear of the site – northern area. There are existing boundary walls constructed to the north east, north west and south west. Access to the site is currently restricted due to the presence of a palisade fence.
- 1.3. The site has a stated area of 0.076ha and the proposed house will have a floor area of 222.4m². The house will be connected to public services.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices, to construct a new dwelling house, all at Site 'A' Leaselands, Mallow, Co. Cork.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 18 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer considered the proposed development in terms of development plan requirements, the visual and residential amenity impacts, roads and traffic issues and servicing issues as well as the planning history of the site, the comments submitted by internal departments of Cork County Council and third party submissions. The report concluded that further information is required in relation to two issues, being a request for a full contour survey and addressing issues in relation to the potential for overlooking, including the submission of clear sections to include the divisional boundary, finished floor and ridge levels and lines of sight as well as boundary treatment proposals. The report also included AA.

Following the submission of the response to the FI request, the report noted that given the separation distance and the level of boundary treatment, the proposal was acceptable. The report further notes that the issue of potential overlooking was not addressed. The Planning Officer concluded that the proposed development was acceptable and in accordance with the proper planning and sustainable development of the area and recommended that permission be granted subject to conditions.

3.2.2. Other Technical Reports

- Area Engineer: The report submitted by the Area Engineer raises no objections to the proposed development subject to recommended conditions.

3.3. Prescribed Bodies

- Irish Water: No objections raised

3.4. Third Party Observations

Three objections to the proposed development were submitted from members of the public. The issues raised are summarised as follows:

- The development would devalue property.
- The development would result in overlooking and overshadowing.
- The development would be out of context with adjacent dwellings.

- The intended occupancy of both the dwellings is queried.

4.0 Planning History

4.1.1. The following is the planning history associated with the subject site:

PA ref 17/4183: Permission granted for the construction of a house on the adjacent site.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Cork County Development Plan, 2014 is the relevant policy document and the subject site is located within the town of Mallow.

5.1.2. The Kanturk Mallow Municipal District Local Area Plan came into effect on the 17th August, 2017 and includes the town of Mallow. It is advised that the Mallow Town Development Plan, 2010-2016 applies. Mallow is identified as a Hub settlement and the Plan seeks to support population growth in the town in order to meet the strategic settlement objectives.

5.1.3. The site is identified as being zoned existing built up area and the predominant use in the immediate vicinity of the site is residential. Policy H1-2 states that proposals for new residential development in established built up residential areas shall be permitted where it is demonstrated that the proposal would not be detrimental to the residential amenity or character of that residential area.

5.2. Natural Heritage Designations

The site is located within the urban area of the town of Mallow and at a distance of approximately 950m to the closest Natura 2000 site, being the Blackwater River SAC, Site Code 002170. The Board will note that the closest watercourse is located approximately 350m from the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

This is a joint third party appeal against the decision of Cork County Council to grant planning permission for the proposed development. The appeal is submitted by Mick Boyce Engineering Services on behalf of the five appellants. The grounds of appeal are similar to those issues raised in the course of the planning authority's assessment of the proposed development and are summarised as follows:

- The required 22m separation distance does not seem to be achieved.
- Concern regarding the finished floor levels as limited details regarding connections to services provided.
- Overlooking and overshadowing raised as a concern.
- Boundary treatment alterations would increase overshadowing.
- Issues relating to the level of fill to accommodate the proposed development.
- Concerns relating to the design of the proposed development including window openings to the rear as well as the side projection having a different pitch to the main roof.

The submission concludes that there would be 'no objection to a lower emphasis design set at a cut and fill at the existing ground level which would incorporate roof lights for rear first floor openings.'

6.2. Planning Authority Response

The Planning Authority has not responded to this appeal.

6.3. Observations

There are no observations noted in relation to this appeal.

6.4. First Party Response

The applicant submitted a response to the third party appeal. The submission is summarised as follows:

- The proposal provides for 22m separation distance
- The finished floor levels as proposed, will be complied with.
- Any planting to the back of the dwelling will be undertaken in accordance with Condition 7 of the grant of permission and shall be implemented in the first year after commencement of the build.
- Raising the level of the boundary wall was proposed, only if appropriate and agreeable. There will be no overlooking. This was verbally proposed only if required.
- The fill and cut will be in accordance with Site Sections A-A, B-B and C-C.
- The issue of windows was not raised as an observation in the initial submission to the Local Authority. Rear elevations of buildings tend to provide for different requirements and it is not possible to keep these as uniform as the front elevation.
- The submission addresses the windows proposed to the rear of the building.

It is submitted that issues raised have been addressed and enclosures are included. It is requested that planning permission be granted.

7.0 **Assessment**

7.1. Having considered all of the information submitted with the planning application and technical reports, 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: Roads & Traffic Issues
- 4: Other Issues
- 5: Appropriate Assessment

7.2. **Principle of development**

7.2.1. The subject site is located within the town of Mallow on zoned and serviced land. The proposal is for the construction of a new dwelling house with connections to public services. The site is currently unoccupied and is located within a residential area. In terms of compliance with the Cork County Council Development Plan, the Kanturk Mallow Municipal District Local Area Plan, 2017 and the Mallow Town Development Plan, 2010-2016, I am satisfied that the proposed development can be considered acceptable in principle and that there is no specific policy in any plan which would preclude the granting on planning permission in principle. All relevant site suitability issues in terms of the provision of a safe access however, are to be addressed.

7.3. **Visual & Residential Amenity Issues**

7.3.1. In terms of the proposed development, there will be a visual impact associated with the construction of the house on the site. In addition, the Board will note that planning permission has been granted to the current applicant, for the construction of a two storey house on the adjacent site to the north east of the current site. The general area has a range of house designs including single storey and two storey with both gabled and hipped roofs. In principle, I have no objection to the proposed house design. I do however, have a concern regarding the potential impact of the overall house design on the adjacent single storey house to the south west.

- 7.3.2. The site slopes down from north east to south west so the existing single storey house is located at a lower level to the proposed two storey house. The finished floor level of the proposed house is to be approximately 1m above that of the single storey house and I consider that this is excessive. If the Board is minded to grant planning permission in this instance, I consider that it would be appropriate to limit the proposed finished floor level to +0.5m above the ffl of the existing house. In this regard, a condition requiring the finished floor level to be no greater than +65.0m.
- 7.3.3. In addition to the above, I consider that the two storey element to the south west of the house, which incorporates the dining room at ground floor level and the ensuite and walk in wardrobe for the master suite at first floor level, should be amended. This element should rise no higher than a single storey which would improve the visual impacts on the existing single storey house with a more appropriate step down from the two storey house. This can be dealt with by way of appropriate condition should the Board be minded to grant planning permission. The Board will also note that the third party appellant has raised concerns regarding the design of the house, notably in terms of the rear elevation. I have no objections to this element of the proposed development. Subject to these amendments, I have no objection to the proposed house design.
- 7.3.4. In terms of the potential impact on residential amenity, the Board will note the submission from the third party during the planning authority's assessment of the proposed development as well as the issues raised in the appeal. The third party raises concern in terms of the 22m separation distance between opposing rear windows. The site layout plan indicates that +12m is achieved from the proposed rear wall of the house and the boundary wall. I also note that the applicant has made an effort to maintain the building line with the existing houses fronting onto Batchelors Walk. Given the location of the site within the built up area of the town of Mallow, I am satisfied that the proposed development is acceptable.
- 7.3.5. The third party appeal also raises concerns in terms of overlooking and overshadowing. The house will rise to an overall height of 8.255m. Should the finished floor level be reduced as recommended, I am satisfied that the proposed house will not overshadow the existing properties in the vicinity. In terms of overlooking, the first floor rear windows are associated with two bedrooms and the

bathroom. I am satisfied that the development will not result in any significant overlooking of existing adjacent properties.

7.4. Roads & Traffic Issues:

- 7.4.1. Access to the site is via the local road network and off Batchelors Walk. As advised, the road rises towards the north east and the Board will note that there is a wide footpath to the front of the site. There is also an ESB pole located just to the north of the site boundary. The site is located within the urban area of Mallow where the speed limit applies. I am further satisfied that adequate sight distances are available at the proposed entrance to the site. I am satisfied that there are no roads and traffic issues arising with regard to the proposed development.

7.5. Other Issues:

- 7.5.1. Boundary treatment:

The Board will note the submission of the third party in relation to the boundary treatments. The first party has advised that the reference to altering the existing wall was proposed only if considered appropriate. The existing wall is considered appropriate to prevent overlooking and there will be no alteration to the wall.

- 7.5.2. Development Contributions:

Development contributions, in accordance with the Cork County Council's Development Contribution Scheme, apply in this instance.

7.6. Appropriate Assessment:

Having considered the nature and scale of the proposed development within the town of Mallow and on serviced lands, together with the separation distance to the nearest Natura 2000 site and the lack of any hydrological connection to the nearest SAC, 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

I recommend that planning permission be granted of the proposed development for the following reasons and considerations and subject to the stated conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the current Cork County Development Plan, 2014 – 2020, the location of the site within the urban area of the town of Mallow and the pattern of existing and permitted development in the vicinity, together with the information submitted as part of the planning application, and the appeal, the Board is satisfied that the proposed development is acceptable in terms of design and scale and would not adversely impact the residential amenities of existing adjacent properties, or the visual amenities of the area, and would be acceptable in terms of traffic safety, subject to compliance with appropriate conditions, and would therefore, 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, 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 proposed development shall be amended as follows:
 - (a) The finished floor level of the proposed house shall not exceed +65.00m.
 - (b) The two story element to the south west of the house shall be reduced to single storey (omitting the ensuite / walk-in robe).

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential 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. No surface water shall be permitted to flow onto the public footpath or public road from the site.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. 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 and general amenities of property in the vicinity.

5. All external finishes, including the roof finish, shall be submitted for the written agreement of the Planning Authority prior to the commencement of any development on the site.

Reason: In the interest of visual amenity.

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7. The site shall be landscaped in accordance with a comprehensive scheme which shall be submitted for the written agreement of the Planning Authority prior to the commencement of any development on the site. The landscaping plan shall also include full details of boundary treatments.

Reason: In the interest of visual amenity.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

A. Considine

Planning Inspector

4th September, 2017