



An
Bord
Pleanála

Inspector's Report PL.04.249313

Development	Change of design to dwelling type, garage, site layout building including realignment of northern boundary on site no. 3 and also change of design to dwelling type on site no. 6 under L.A. Ref. 13/6119.
Location	Ashgrove Meadows, Clogheenavodig, Bandon, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/4530
Applicant(s)	T&V Barry Investments and Holdings Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	David Hamilton
Observer(s)	None
Date of Site Inspection	22 nd November 2017

Inspector

Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The subject site is located on the south-western outskirts of Bandon.
- 1.2. The subject site is accessed by a narrow cul-de-sac which takes its access off the N71.
- 1.3. The cul-de-sac is in relatively good condition and provides access to several established residential properties.
- 1.4. The appeal site comprises of six detached houses which are currently under construction.
- 1.5. The gradient of the appeal site is consistent with the local area and slopes upwards from north to south.
- 1.6. The proposed development relates to site no. 3 and site no. 6.
- 1.7. Site no. 3 is situated in the north-east corner of the appeal site whereas site no. 6 is located to the south-east corner of the appeal site.
- 1.8. There is an established single storey house situated to the immediate north of site no. 3.
- 1.9. The site of the adjoining single storey property is situated at a lower level than site no. 3 reflecting the topography of the local area.

2.0 Proposed Development

- 2.1. The proposed development relates to site no. 3 and site no. 6 of a permitted development. (L.A. Ref. 13/6119).
- 2.2. The proposal includes the change of design to dwelling type, garage and site layout.
- 2.3. The proposal also includes realignment of the northern site boundary of site no. 3.
- 2.4. In relation to site no. 3 the overall floor area of the permitted house was 268 sq. metres whereas the revised proposal has a floor area of 276 sq. metres.
- 2.5. In essence the proposal amounts to the rearrangement of fenestration to the elevations.

- 2.6. The proposal also includes the relocation of a garage from the north-west corner of the site no. 3 to the south east of site no. 3.
- 2.7. The proposal also includes the change of design to dwelling type on site no. 6.

The Local authority sought additional information requesting the applicant to address concerns in relation to overlooking.

3.0 **Planning Authority Decision**

Cork County Council decided to **grant** planning permission subject to 17 conditions. The conditions are standard for the nature of the development proposed.

3.1. **Planning Authority Reports**

- 3.1.1. The main issues raised in the A/SEP's report are as follows;

A/Senior Executive Planner

- The site is zoned 'existing built up area'.
- Permission was granted on the site for 6 no. houses in 2008.
- Duration of Permission was extended to 2018.
- Permission granted in 2013 for change to design of dwelling types, garages and site layout.
- The current planning application relates to site no. 3 and site no. 6. There is a concurrent application that relates to sites no. 1 and no. 2.
- There is a concern regarding the changes to the fenestration on the upper floor of the northern elevation of the permitted house on site no. 3.
- The additional windows give rise to overlooking concerns.
- In relation to site no. 3 this property adjoins a third-party residence. This adjoining property is single storey in height and its front elevation faces west. The proposed dwelling is two-storey's in height.
- No objections to alterations associated with site no. 3 or no. 6.

- The increase in ridge height of no. 6 is marginal and no issue arises.

The following departments of the Local Authority reported on the proposed development;

- 3.1.2. Archaeologist; - Refer to previous permission.
- 3.1.3. Estates Primary; - No objections subject to conditions.
- 3.1.4. Area Engineer; - No objections subject to conditions.

3.2. **Third Party Observations**

There is a third-party submission and the issues raised have been noted and considered. In summary, the issues raised include the following;

- Loss of daylight / sunlight
- Direct overlooking of property and private amenity space
- Overbearing
- Style and design
- Narrow road serving the site

3.3. **Submissions**

There is a submission from Irish Water who have no objections.

4.0 **Planning History**

- L.A. Ref. 17/4531 – Permission **granted on the 7th June 2017** for alterations to permitted house design at site no. 1 and site no. 2.
- L.A. Ref. 13/06119 – Permission **granted on the 17th February 2014** to amend the design and layout of 6 no. detached dwellings and 6 no. permitted detached garages.

- L.A. Ref. 13/4232 – Permission **granted** to extend the duration of permission (L.A. Ref. 07/11025) until 2018.
- L.A. Ref. 07/11025 – Permission **granted** for the demolition of a dwelling house and farm building and construction of 6 no. dwelling houses, 6 no. domestic garages and associated site works.

5.0 Policy Context

5.1. Development Plan

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

5.2. Local Area Plan

The Bandon Kinsale Municipal District Local Area Plan, 2016, is the relevant LAP.

The appeal site is located within the development boundary of the LAP but is not zoned.

6.0 Observations

None

7.0 Appeal

The following is the summary of a third-party appeal.

Concerns regarding to loss of daylight and sunlight

- The response to the additional information request has failed to address concerns in relation to loss of daylight and sunlight.

- The appellant will experience loss of daylight and sunlight if there are no changes.
- Images no. 2 and no. 3 of the appeal submission illustrate the kitchen / dining area of the appellant's property.
- The kitchen / dining area is situated to this part of the house to take advantage of the south facing elevation.
- The conservatory, illustrated in images 5-9, provides much needed lighting to the property.
- The proposal will have a detrimental impact on daylight / sunlight as site no. 3 is located close to the appellant's property and site no. 3 is situated on higher ground than the appellant's property.
- A cross section of the two sites is illustrated in image no. 4.

Overlooking

- The amendments to the fenestration do not overcome the overlooking concerns. The appellant's property will be negatively impacted by the proposed development.
- The proposal will overlook the appellant's main living area and private amenity space from for upper level windows.
- A 22m separation distance between opposing first floor windows is recommended.
- The limited separation distance, the difference in site levels and the orientation of no. 3 relative to the appellant's property will result in undue overlooking of the primary living area and private amenity space.
- This demonstrates that a two-storey house on site no. 3 is not appropriate given the impact on residential amenity.
- The amended north elevation still has two upper floor windows that will overlook the appellant's property.

Overbearing

- The proposed units are very bulky when compared with established houses in the immediate area.
- The house at no. 3 will be overbearing in size and height on the appellant's property.
- The house on site no. 3 will be approximately 3m higher than the appellant's property.
- The difference in site levels is 1.5m which exacerbates the situation.
- The difference in height and levels is illustrated in image no. 7.

Style and Design

- The existing houses in the locality are bungalows or dormer bungalows.
- The proposed units are large and bulky and therefore bear no relationship to the existing housing character.
- The proposed house should match established styles and should be no more than 1.5 storeys in height.

Narrow road serving the site

- There are concerns regarding the suitability of this lane.
- There will be increased pressure on the road due to additional trips.
- The road needs to be upgraded to cater for the additional trips.

8.0 Responses

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

Loss of sunlight / daylight

- The proposal has no impact on existing daylight levels.
- The existing kitchen is independently lit from a window facing the rear of the property.

- The dining / conservatory has been constructed at a lower level than the remainder of the dwelling.
- The conservatory benefits from direct sunlight on three sides, i.e. east, west and south.
- The daylight from the southside is already reduced due to the existing boundary fence and by the decision of the appellant to drop the levels of the site.
- The appellant's site lies within the town boundary and it is not unreasonable to expect an impact on daylight.
- A Shadow Study is included in Appendix A.
- Sunlight is reduced at the appellant's property for the period November – January.
- This reduction in sunlight is only received in one of the appellant's windows.
- Any reduction in sunlight is only marginal given the established loss of sunlight due to the appellant's high boundary wall.
- The level of shadow cast during this confined period is only marginal relative to the shadow cast by the existing boundary fence.
- It is submitted that the boundary fence has been accurately surveyed.
- A marginal level of overshadowing is only experienced in the conservatory south facing window.
- The conservatory enjoys both direct sunlight from east and west facing areas.
- It is submitted that east and west facing sunlight is most beneficial to the conservatory as it is most penetrative.
- The conservatory enjoys light from three sides and the proposal will only result in a marginal loss of sunlight during a short period in low winter sunshine.
- A new site section (Appendix B) is submitted showing the relationship between the proposed development and the existing house.
- The site section highlights the misleading nature of the site section submitted by the appellant.

- The submitted site section demonstrates that the proposal passes the 25-degree test referred to by the appellant.

Alleged overlooking

- There is no view from the velux window from the stairwell towards the appellant's property.
- There is no overlooking from the half landing or the first-floor level.
- The window to the circulation space on the northern elevation has been previously permitted under L.A. Ref. 13/6119.
- This window only affords a passing glimpse to the appellant's gable end.
- The velux window to the master bedroom provides no views of the appellant's property.
- The window to the master bedroom on the northern elevation is significantly reduced in size relative to that permitted in accordance with L.A. Ref. 13/6119.
- The proposed window lies further west than the appellant's front building line.
- The said window only offers acutely oblique views towards the south facing window of the appellant's conservatory. The said window is not the primary window for the master bedroom.
- The 22-metre rule has no significance in the context of the appeal.

Alleged Overbearing

- It is submitted that the appellants own dwelling with a main gable span of 9.9 metres and a ridge height of 7.26 metres represents a more significant overbearing mass.
- The floor to ridge height of dwelling no. 3 is only 0.495m higher than that of the appellant's dwelling.
- It is contended that the difference in height is largely due to the construction of a flat house on a sloping site. The applicant excavated the site to accommodate his dwelling.

House style and design

- There is no planning strategy for house design locally.
- The sloping backdrop to the south of the appeal site diminishes the scale of the proposed house.
- Photographs are submitted (Appendix D) which illustrates the topography of Spring Lane and the environs.
- It is submitted that the proposed two-storey house provides a more detailed solution rather than 1.5 storey dwelling.

Standard of access road

- The local road has good surface and edge treatment and serves currently only 6 houses.
- The Area Engineer has no objections for the proposed development.
- Condition no. 20 of L.A. Ref. 13/6119 requires a significant contribution for the 6 no. houses.

Comparison between current scheme and previously permitted / active

- Relocation of garage.
- Entrance to dwelling no. 3 is located on south facing side.
- The front elevation of no. 3 has been relocated away from the appellant's property.
- A corner window which previously faced the appellant's property may face away.
- Vehicular and pedestrian traffic is now relocated to the south of the proposed dwelling due to the redesign of the house.
- The current proposal involves the moving southwards of the north / south block by some 0.55 metres, thereby increasing the separation from the appellant's property.

The following is the summary of a response submitted by the **appellant**;

- The applicant was constructing his own house during the time of the original planning application (L.A. Ref. 13/6119) rather than living in his property.
- The claims that the level change at the appellant's property was more than 1m is inaccurate. The level change was approximately 220mm.

Loss of daylight / sunlight

- The southern gable end window of the appellant's property is the most effective window in providing light for the kitchen / dining area.
- The loss of light to the conservatory cannot be justified on the basis that there are other windows in the kitchen / conservatory.
- It is irrelevant that the conservatory is lit by other windows as the proposal still reduces the amount of sunlight.
- The kitchen / dining area have been located at this end of the house to maximise south facing sunlight.
- The conservatory provides much needed lighting to the interior of the property.
- The site although located in Bandon is not urban in form.
- The difference in site levels does not impact on the amount of light that enters the conservatory.
- It is clear from images no. 1 and 2 that the boundary fence does not restrict the sunlight into the conservatory.
- The proposal will cast a significant shadow on the appellant's private amenity space.

Overlooking

- The appellant's residential amenity will be negatively impacted by overlooking.
- The proposed amendments do not address concerns.
- There will be direct overlooking of living spaces and private amenity spaces.

Overbearing

- The proposed units are very bulky when compared with established houses in the immediate area.
- The house at site no. 3 will be overbearing in size and height on the appellant's property.
- The house on site no. 3 will be approximately 3m higher than the appellant's property.
- The difference in site levels is 1.5m which exacerbates the situation.
- The difference in height and levels is illustrated in image no. 7.
- Image no. 9 & 10 illustrate the scale of the proposed development relative to the existing house.

Style and design

- The existing houses in the locality are bungalows or dormer bungalows.
- The proposed units are large and bulky and therefore bear no relationship to the existing housing character.
- The proposed house should match these styles and should be no more than 1.5 storeys in height.

9.0 **Assessment**

Introduction

The proposed development effectively amounts to changes in terms of layout, design and elevation to two permitted houses within a development currently under construction. The houses were permitted in accordance with L.A. Ref. 13/6119. The submitted third party appeal relates solely to the permitted house on site no. 3 and I would consider that the proposed alterations to house no. 6 is acceptable. In essence the appeal argues that the changes brought about by the current design proposal will have an adverse impact on their established residential amenities. Therefore, the Board, in considering this appeal, can only have regard to the

alterations from the permitted house rather than the principle to the house itself. I would consider that the issues for consideration are as follows;

- Overbearing
- Loss of Sunlight / Daylight
- Overlooking
- Style and Design
- Access

9.1. **Overbearing**

- 9.1.1. It is evident from the submitted site plan, i.e. drawing ref. 1323-PL-01, that the footprint of the proposed house on site no. 3 is indicated as partially shifting towards the appellant's property. It is also evident that some of the northern elevation of the proposed house at site no. 3 has shifted away from the appellant's property. The part of the proposed house that has shifted towards the appellant's property relates to the addition of a bay window at ground floor level. The bay window is situated at the north-west corner of the proposed house on site no. 3.
- 9.1.2. The boundary between the appeal site, i.e. site no. 3 and the appellant's southern site boundary has also moved by approximately 2 – 3 metres. Therefore, I would consider it more appropriate to consider the separation distance between the respective properties rather than the boundary fence.
- 9.1.3. The bay window at ground floor level extends forward by approximately 1.5 metres from the permitted house design. The width of the bay window is approximately 4.2 metres. The northern elevation of the bay window is situated approximately 11.8 metres from the southern most elevation of the appellant's property. Whereas the permitted house on site no. 3 was set back approximately 13.2 metres from the southern elevation of the appellant's property. The difference between the separation distances would equate to the scale of the proposed ground floor bay window extension, i.e. approximately 1.5m. The northern elevation at the western side has

shifted approximately 0.5 metres away from the appellant's property relative to the permitted house. This part of the elevation is two-storey's in height and therefore represents an improvement in terms of potential overbearing impacts.

9.1.4. I would note that the overall height of the proposed house on site no. 3 is unchanged from that permitted, i.e. 7.775 metres above ground level. The applicant submitted a cross section that illustrates the proposed house at site no. 3 relative to the appellant's property. This cross section illustrates that there is a difference in level between the two sites and part of this is due to the local topography but is also due to the appellant's sunken patio which adjoins the southern boundary.

9.1.5. Overall I would consider that the relevant question is whether the addition of a proposed bay window at ground floor level to the permitted house at site no. 3 will have an overbearing impact on the appellant's property. I would conclude, based on visual observation of the subject site and the submitted drawings that the overall additional impact would be marginal given that the bay window is single storey in height and having regard to scale of the difference, i.e. 1.5 metres. I would not consider that the proposed alterations would unduly impact on the residential amenities of the appellant in terms of overbearing.

9.2. **Loss of Sunlight / Daylight**

9.2.1. In terms of considering any loss of daylight or sunlight the significant issue, as outlined above, is whether the introduction of the ground floor bay window along the northern elevation will amount to any additional loss of sunlight / daylight relative to the permitted house.

9.2.2. I have reviewed the submitted 'Shadow Study' and I would note that the proposed house on site no. 3 would only result in additional overshadowing during the winter period at 12:00 hours. It is evident from the submitted shadow study that the entire conservatory would be covered in shadow by the proposed house during the winter

period. I would also note from the shadow study that during Spring at 09:00 hours that the proposed house will amount to additional overshadowing to the front of the appellant's house which is their private amenity space.

9.2.3. However, it is important to note that the appellant's site has been excavated to facilitate a sunken patio and therefore the conservatory is situated at an artificially lower level than the natural levels of the site. This has an implication in terms of overshadowing as the adjacent boundary fence causes overshadowing given the height, orientation and proximity to the conservatory.

9.2.4. I would conclude, based on the submitted Shadow Study and the submitted drawings, that the overall impact of the ground floor bay window would not be significant.

9.3. **Overlooking**

9.3.1. I would consider that any realistic overlooking potential from the proposed house at site no. 3 is likely to come from the northern elevation.

9.3.2. In terms of overlooking considerations, I would note from the additional information response that the northern elevation has altered considerably from that originally submitted with the planning application. The revised drawing (i.e. Dwellings Plans / Section Site no. 3) indicates that bedroom no. 5 is relocated to the southern side of the proposed house therefore removing the need for a bedroom window on the northern elevation. The revised proposal also removed two first floor windows from the northern elevation and replaced them with velux roof windows. The two remaining first floor windows would amount to an overall improvement relative to the permitted northern elevation as the permitted design had a larger corner window serving the master bedroom. The window on the northern elevation to serve the master bedroom is modest relative to the permitted window. The applicant proposes a second window to the northern elevation at first-floor level however this window is identical to that in the permitted house design. Overall I would conclude that the

proposed house design would be an improvement for the appellant's property in terms of overlooking concerns.

9.4. **Style and Design**

9.4.1. In terms of style and design I would accept that the house at site no. 3 is different to established houses in the immediate area in terms of height and design. However, the appeal site has a live permission for 6 no. detached houses which are similar in design, height and character to the proposed house design at site no. 3.

9.4.2. The length of the northern and southern elevation to the proposed house on site no. 3 is slightly longer than the permitted house on site no. 3. In this regard the overall length of the revised northern and southern elevation is approximately 1m longer.

9.4.3. Based on the alterations submitted I would not consider that the revised house at site no. 3 is of a style or design that would be uncharacteristic of the local area.

9.5. **Access**

9.5.1. In terms of access I would acknowledge that the local road is a cul-de-sac, i.e. L-20441 and this cul-de-sac is accessed from the N71. The Local Authority Area Engineer in his report, dated 18th April 2017, outlined that the previous application L.A. Ref. 13/6119 included a condition that required a special contribution of €45,625 for the resurfacing of the access road.

9.5.2. Having regard to the parent permission and the special financial contribution I would conclude that any concerns in relation to access have been previously addressed.

10.0 Recommendation

10.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, the Local Area Plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

11.0 Reasons and Considerations

Having regard to the permitted development on the subject site, the pattern of development and the extent of the development proposed, it is considered that subject to compliance with conditions set out below, the development proposed to be carried out would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans lodged with the application, except as may otherwise be required to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed.

Reason: In the interest of clarity.

2. The proposed development shall comply with the terms and conditions of Planning Reg. no. 07/11025 and 13/6119 which governs the overall development of the lands of which the site forms part, save where amended by the terms and conditions herein.

Reason: In the interests of clarity.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

5. That all necessary measures be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

6. Water supply and all 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 and to ensure a proper standard of development.

7. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in

writing with the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of waste.

Reason: In the interest of amenities and public safety.

8. 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.

Kenneth Moloney
Planning Inspector

2nd February 2018