



An
Bord
Pleanála

Inspector's Report PL04.249360

Development

The retention and completion of a rear single storey extension including renovations to a two storey cottage, incorporating demolition of a rear section with roof / dormer window modifications, block up rear door and gable window, removal of side bay window incorporating first floor balcony, as well as planning permission for an additional single storey rear extension.

Location

The Lodge, adjacent to Moneygurney House, Moneygurney, Johnstown, Douglas, Co. Cork.

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

17/4781

Applicant(s)

John & Helen Sweetnam

Type of Application

Permission & Permission for Retention

Planning Authority Decision

Grant subject to conditions

Type of Appeal	Third Party v. Decision
Appellant(s)	Ann Riordan
Observer(s)	None.
Date of Site Inspection	18 th December, 2017
Inspector	Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located at Moneygurney, Co. Cork, beyond the southern environs of Cork City, approximately 2.8km southeast of Douglas Village and 0.9km east of the N28 National Road, where it occupies a roadside position in an increasingly rural area along a local county roadway that extends south-eastwards from Douglas towards Carrigaline. It has a stated site area of 0.12 hectares, is irregularly shaped, and is presently occupied by a cottage-style dwelling house known as 'The Lodge' which is situated a short distance north of the main entrance to Moneygurney House / 'Sweet Farm'. The original 'cottage' construction has been significantly remodelled with multiple extensions having been built to the rear, including a two-storey dormer-style element and the partially completed flat-roofed return beyond same. The site is bounded by a vegetated stone / clay embankment, hedging and some mature trees to the north (with the adjacent lands occupied by a single storey bungalow and an associated outbuilding / shed) whilst the southern site boundary adjoins a private laneway (which provides access to the application site and a two-storey dwelling house to the rear of same) and an intervening mature tree stand. The public road abuts the site to the east whilst the rear (western) site boundary is not physically defined at present. There is a noticeable change in the topography of the site on travelling westwards away from the public road with the ground levels gradually rising to match those of the adjacent lands to the immediate north (and west) and in this respect it should be noted that the construction of the existing / proposed extensions has necessitated the carrying out of notable excavation works towards the rear of the site.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
- The retention and completion of a partially constructed single storey rear extension, including renovations to the existing two-storey cottage, incorporating the demolition of a rear section with roof / dormer window

modifications, the blocking-up of a rear door and gable window, and the removal of a side bay window incorporating a first floor balcony.

- The construction of an additional single storey extension to the rear of the existing dwelling house.

N.B. In response to requests for further information and subsequent clarification, the submitted proposal has been amended to include for the installation of a new wastewater treatment system beyond the confines of the application site, however, it should be noted that revised public notices were not sought by the Planning Authority with regard to these modifications.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of responses to requests for further information and subsequent clarification, on 12th September, 2017 the Planning Authority issued a notification of a decision to grant permission & permission for the retention of the proposed development, subject to 16 No. conditions which can be summarised as follows:

Condition No. 1 – Refers to the submitted plans and particulars

Condition No. 2 – Prohibits the erection of any additional structures within the curtilage of the dwelling house without the benefit of a grant of permission.

Condition No. 3 – Refers to external finishes.

Condition No. 4 – Requires the proposed extension to be used solely for purposes incidental to the enjoyment of the dwelling house.

Condition No. 5 – Requires the finished floor levels of the proposed structure and the ground levels on site to accord with the submitted particulars.

Condition No. 6 – Refers to the protection of existing trees and hedgerow during the course of the construction works.

- Condition No. 7 – Refers to waste management during the construction works.
- Condition No. 8 – Refers to the provision of on-site car parking during the construction phase.
- Condition No. 9 – Refers to the provision of sightlines from the entrance onto the public road (90m in both directions measured from a point set back 2.4m from the nearside edge of the carriageway) and requires the submission of a revised site layout plan detailing same prior to the commencement of development.
- Condition No. 10 – Requires the gates to open inwards.
- Condition No. 11 – Requires the provision of 2 No. car parking spaces on site prior to the first occupation of the proposed development.
- Condition No. 12 – Requires surface water runoff to be disposed of on site by way of soakaways.
- Condition No. 13 – Refers to the installation of a drainage grating at the site entrance.
- Condition No. 14 – Requires the proposed septic tank system to be designed constructed and maintained in accordance with the provisions of the EPA's '*Code of Practice, Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. <10), 2009*'. In addition, certification that the system has been suitably installed is to be submitted to the Local Authority prior to the first occupation of the proposed extension.
- Condition No. 15 – Refers to connection to the public watermain.
- Condition No. 16 – Requires the payment of a development contribution in the amount of €3,820.44.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report noted the site context, its planning history, and the relevant policy provisions etc. before concluding that the overall design and layout of the proposed

extension was acceptable and would not give rise to any detrimental impact on the residential amenity of the neighbouring property to the immediate north by reason of overlooking or overshadowing. However, it was recommended that further information should be sought in respect of a number of matters, including the sightlines available from the existing site entrance, the location of the proposed on-site surface water soakaways, and the suitability of the proposal to utilise an existing wastewater treatment system.

Following the receipt of a response to a request for further information, a further report was prepared which recommended that clarification should be sought in respect of the sightlines available from the site entrance, the wastewater treatment arrangements, and the future intentions for the 'temporary spoil heap' on site.

Upon consideration of the additional details submitted in response to a request for clarification, a final report was prepared which recommended a grant of permission, subject to conditions.

3.2.2. Other Technical Reports:

Area Engineer: Recommends that further information should be sought in respect of a number of issues, including the achievement of sightlines of 90m in both directions from the site entrance onto the public road, the site levels both prior to and after the development works, the location of soakpits, and the proposed wastewater treatment and disposal arrangements.

Engineering: Following consideration of the applicants' response to a request for further information, an initial report recommended that further clarification should be sought with regard to the sightlines available, the future intentions for the spoil heap on site, and the need to submit a revised site layout plan detailing the proposed wastewater treatment unit and the percolation area.

Upon the receipt of a response to the request for further clarification, a final report was prepared which recommended a grant of permission, subject to conditions.

3.3. Prescribed Bodies:

Irish Water: No objection, subject to conditions.

3.4. Third Party Observations:

A total of 2 No. submissions were received from interested third parties and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental impact on the residential amenity of the neighbouring property by reason of overlooking, loss of privacy, and security concerns.
- The extent and proximity of the proposed construction relative to the site boundary and a soakpit within the neighbouring property.
- The works for which permission has been sought are almost complete on site.
- The groundworks etc. undertaken on site are unsightly and detract from the visual amenity of the area.
- The ground levels on site should be returned to their original pre-development state.
- The property in question was originally a gate lodge to Johnstown House and, therefore, the proposed development should be in keeping with the original format.
- There are concerns with regard to any additional traffic along the adjacent laneway.
- There are concerns that the property may be subdivided into multiple units in the future.

4.0 Planning History

4.1. On Site:

None.

4.2. On Sites in the Immediate Vicinity:

PA Ref. No. 04/5494. Was granted on 1st December, 2004 permitting Kathleen Sweetnam permission for a dwelling house at Moneygurney, Douglas, Co. Cork.

PA Ref. No. 04/8692. Was refused on 9th June, 2005 refusing John & Helena Sweetnam permission for a nine-hole golf course with club house/fitness centre, car parking and waste water treatment system, surface water control measures and assoc. development works at Moneygurney, Douglas, Co. Cork.

PA Ref. No. 08/4319. Was refused on 18th March, 2008 refusing John Sweetnam permission for the retention of the upgrading of existing entrance to site and change of use of agricultural yard to truck depot at Moneygurney, Douglas, Co. Cork.

PA Ref. No. 10/6338. Was granted on 18th July, 2011 permitting Castlelands Construction Company permission for the retention of extensions and alterations to existing dwelling house to include (a) porch, sunroom, conservatory, store, utility, dining room and lounge at ground floor (b) 1 no. bedroom, dressing room, en-suite and store at second (attic) floor (c) 5 no. roof lights to rear (Southern) roof of dwelling at Moneygurney House, Johnstown, Douglas, Co. Cork.

PA Ref. No. 15/5243. Was granted on 24th February, 2016 permitting Kate Sweetnam permission for a two-storey dwelling house, wastewater treatment system and all associated site works on lands adjacent to Moneygurney House, Moneygurney, Johnstown, Douglas, Co. Cork.

5.0 Policy Context

5.1. Development Plan

Cork County Development Plan, 2014:-

Chapter 3: Housing

Chapter 13: Green Infrastructure and Environment:

Section 13.5: Landscape

Section 13.6: Landscape Character Assessment of County Cork:

Section 13.6.8: Landscape Character Types which have a very high or high landscape value and high or very high landscape sensitivity and are of county or national importance are considered to be our most valuable landscapes and therefore it is proposed to designate them as High Value Landscapes (HVL), highlighted in green in the Table in Appendix E Landscape Character Assessment attached and shown in Figure 13.2.

GI 6-1: *Landscape:*

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land use proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

GI 6-2: *Draft Landscape Strategy:*

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

N.B. The proposed development site is located within a 'High Value' landscape.

Section 13.8: *Prominent and Strategic Metropolitan Cork Greenbelt Areas:*

GI 8-1: *Prominent and Strategic Metropolitan Greenbelt Areas requiring Special Protection:*

Protect those prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Cork Greenbelt and those areas which form strategic, largely undeveloped gaps between the main Greenbelt settlements. These areas are labelled MGB1 in the

Metropolitan Greenbelt map (Figure 13.3) and it is an objective to preserve them from development.

Ballincollig Carrigaline Municipal District Local Area Plan, 2017:

Chapter 2: Local Area Plan Strategy

5.2. Natural Heritage Designations

The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The Cork Harbour Special Protection Area (Site Code: 004030), approximately 2km north of the site.
- The Great Island Channel Special Area of Conservation (Site Code: 001058), approximately 5.7km northeast of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- The site plan supplied with the planning application does not accurately reflect the entrance layout. In this respect it would appear that the Planning Authority has failed to note that the appellant's boundary ditch is set back c. 2m from the edge of the public road whilst the submitted layout plan does not identify the obstacles on both sides of the site entrance.
- The provision of an additional window within the side elevation of the proposed development will have a detrimental impact on the residential amenity of the appellant's neighbouring property by reason of overlooking with an associated loss of privacy.
- There are concerns with regard to the extent and proximity of the proposed construction relative to the site boundary and a soakpit / 'cesspit' within the appellant's property.

- The positioning and elevation of the proposed flat-roofed extension to the shared site boundary gives rise to concerns as regards the security of the appellant's property.
- Whilst the subject application has sought permission to construct an additional single storey extension to the rear of the existing dwelling house, these works have almost been completed.
- The various groundworks undertaken on site and the associated deposition of material, including subsoil, builder's rubble and felled trees, are unsightly and detract from the visual amenity of the surrounding area.
- Clarification is required as regards the proposed boundary treatment and screening measures.

6.2. Applicant's Response

- The current entrance arrangement serves an existing cottage and it is the applicant's understanding that there has never been an accident at this location as the entrance in question is clearly visible from both directions.
- The appellant would appear to have misinterpreted the subject proposal as there is no intention to take / remove any section of the roadside frontage of her property. Any such works would be unnecessary in order to achieve the necessary sightlines required by Cork County Council guidelines.
- The accompanying photographs demonstrate that sightlines of 90m (measured from a point set back 2.4m from the near edge of the carriageway) are available in both directions from the existing entrance and that there is no need to undertake any alterations to either the subject site or the neighbouring property.
- The proximity of the soakpit / 'cesspit' within the appellant's property to the intervening site boundary is not the responsibility of the applicants. In this regard it is reiterated that subject site is occupied by an existing cottage and that the submitted proposal provides for the demolition of a rear extension and the replacement of same with a new construction of a greater size. The applicants' need for the additional accommodation proposed is set out in the

submitted documentation and it was felt that a two-storey extension was not a suitable option.

- The applicants are committed to employing suitably qualified landscaping consultants in order to deal with all on site trees and boundaries.
- The existing spoil heap on site is only in place as development works have ceased pending the resolution of the planning issues and proposals to address same have been submitted with the application.
- The design of the proposed development has sought to minimise the visual impact when viewed from the public road and adjacent properties. In this regard it is further submitted that the proposal effectively involves the recreation of the historical construction on site.

6.3. **Planning Authority's Response**

None.

6.4. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- Impact on residential amenity
- Traffic implications
- Wastewater treatment and disposal
- Appropriate assessment
- Procedural issues

These are assessed as follows:

7.2. **Impact on Residential Amenity:**

- 7.2.1. Concerns have been raised in the grounds of appeal that the inclusion of an additional window within the side (northern) elevation of the proposed development will have a detrimental impact on the residential amenity of the appellant's neighbouring dwelling house by reason of overlooking with an associated loss of privacy, however, having reviewed the submitted drawings, it is apparent from a comparison of the proposed works with the 'original cottage' construction that the subject proposal does not include for any additional windows within the northern elevation of the extended property and that an existing doorway within this elevation will actually be blocked up as part of the overall development. Accordingly, I am satisfied that the submitted proposal will not give rise to any undue overlooking of the appellant's property.
- 7.2.2. With regard to the concerns that the proposed development will undermine the security of the appellant's property given the height and proximity of the proposed single storey flat-roofed construction relative to the shared site boundary, I am unconvinced that the submitted design poses any additional security risk over and above that which would have been associated with the previously open garden area to the rear of the existing house. Furthermore, I am inclined to suggest that the provision of suitable boundary treatment / screening measures along the intervening boundary will serve to preserve the security of both the application site and the appellant's property and, therefore, it is recommended that a suitable condition be attached to any grant of permission requiring such matters to be agreed with the Planning Authority in advance of any further development works.
- 7.2.3. In relation to the appellant's concerns that the proposed development may interfere with or result in the encroachment of her property, following a review of the submitted plans and particulars, I would advise the Board that it appears the proposed development will not physically encroach into the adjacent property whilst the applicants have also confirmed that all works will be carried out on lands within their ownership. In any event, it is my opinion that any alleged encroachment or interference with the appellant's property (including any need for access to same in order to allow construction / maintenance of the proposed development) is essentially a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development

Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

- 7.2.4. In reference to the proximity of the proposed construction to an existing soakpit / 'cesspit' within the appellant's property, it is unclear from the available information whether or not the latter refers to a surface water soakaway or a percolation area / soakpit associated with the septic tank / wastewater treatment system serving the neighbouring dwelling house. In this regard it is regrettable that further details have not been provided, however, I would advise the Board that the site plan submitted by the applicant on 4th July, 2017, which purports to show the approximate locations of all septic tanks and percolation areas etc. within adjoining properties, suggests that the appellant's percolation area is located away from the shared site boundary.
- 7.2.5. Finally, with respect to the concerns expressed regarding the current unsightly / unkempt appearance of the application site, in my opinion, there must be an acknowledgement that the lands in question presently amount to an unfinished construction / building site and that on the completion of same the likelihood is that the property will be returned to suitable condition compatible with the residential amenity of the dwelling house.

7.3. **Traffic Implications:**

- 7.3.1. From a review of the available information, it is apparent that the Local Authority has concerns as regards the adequacy of the sightlines available at the junction of the private laneway (over which access is obtained to the proposed development site) and the public road, however, given that the subject proposal simply concerns the construction of a domestic extension to an existing dwelling house which is already served by an established access arrangement, and noting that the said access would appear to have previously been deemed to be adequate to accommodate the additional traffic volumes consequent on the construction of that dwelling house permitted under PA Ref. No. 04/5494, in my opinion, it would be reasonable to conclude that the proposed development will not give rise to such an increase in traffic volumes as to endanger public safety by reason of traffic hazard.

7.4. **Wastewater Treatment and Disposal:**

- 7.4.1. The proposed development involves the extension of an existing dwelling house and in this respect it is of relevance to note that whilst the 'original' cottage would appear to have been four-bedroomed (incl. 2 No. ensuite bedrooms), the extended property will include for a total of 5 No. ensuite bedrooms (with several of the original bedrooms having been expanded / remodelled) and thus provides for an overall increase in the number of bedspaces within the dwelling house. More notably, the aforementioned expansion of the habitable accommodation on site will likely place additional demands on the existing wastewater treatment system serving the dwelling house and, therefore, it is necessary to establish whether or not this system has the capacity to accommodate the additional loadings consequent on the proposed development.
- 7.4.2. The subject proposal, as initially submitted to the Planning Authority, indicated that it was proposed to utilise the existing wastewater treatment system serving the dwelling house to accommodate the proposed development, however, no details were supplied with the application to support such a proposition and in this regard I would suggest it would have been necessary for the applicant to have provided clear details of type, size and dimensions etc. of the existing system (in addition to a condition report on same) in order to ensure that it was in a satisfactory working condition and had the capacity to accommodate the additional loadings consequent on the proposed development. Notably, whilst the initial report of the case planner raised similar concerns with regard to the need for the applicant to demonstrate that the existing treatment system had sufficient capacity to accommodate the proposed development, the contents of the request for further information subsequently issued by the Planning Authority would appear to be derived from a report prepared by the Area Engineer which instead references a treatment system which is to be retained in addition to a proposed treatment system on lands outside the confines of the application site.
- 7.4.3. In response to the request for further information issued by the Planning Authority, the applicant submitted a Site Characterisation Form which concluded that the lands upon which the existing septic tank system was situated were suitable for the disposal of treated effluent to ground, however, this report also recommended that a new system should be installed whilst the overall further information response

included a site specific report / proposal prepared by the manufacturer of the 'proposed' septic tank system and a site layout plan that detailed a '*proposed tank & percolation area*'. Subsequently, further clarification was provided by the applicant on 25th August, 2017 which included a revised site layout plan which detailed the installation of a '*Proposed ST Euro Septic Tank & Percolation Area*' on lands beyond the confines of the application site.

- 7.4.4. Having reviewed the submitted plans and particulars, in my opinion, the information supplied has not established that the existing septic tank system serving the dwelling house has the capacity to accommodate the additional loadings consequent on the proposed development or that the system itself is in a satisfactory working condition. In this regard I would reiterate to the Board that the subject proposal provides for an increase in the number of bedrooms and bedspaces within the dwelling house and thus it is essential to establish that the proposed development will not result in the overloading / surcharging of the existing system or give rise to a risk of water pollution (*N.B.* The Board may also wish to consider that the provision of 5 No. en-suite bedrooms within the dwelling house raises the possibility that the property may be intended to operate as commercial overnight guest accommodation i.e. as a 'Bed and Breakfast' / guesthouse).
- 7.4.5. Furthermore, with regard to the revised proposal to install a new septic tank system to serve the extended dwelling house (as detailed in response to the requests for further information and subsequent clarification), it is my opinion that any such revision to the initial planning application would involve a significant and material alteration and thus would necessitate the publication of revised public notices. Regrettably, notwithstanding the submission of this significant additional further information, the Planning Authority did not seek the publication of revised public notices with regard to the aforementioned modification. Therefore, in the event that the Board is amenable to a grant of permission in this instance, I would suggest that it is precluded from doing so in the absence of new notices.
- 7.4.6. In addition to the foregoing, I would also have reservations as regards the proposal to install a new septic tank system as part of the proposed development given that the intended location for same is outside of the application site (as outlined in red) on lands which have been referenced as both within the applicants' ownership and as 'adjoining family lands'. Accordingly, I would have concerns as regards potential

procedural irregularities with regard to the amended wastewater treatment proposals and the enforceability of any conditions pertaining to same in the event of a grant of permission.

- 7.4.7. Therefore, in light of the foregoing, it is my opinion that it has not been definitively established that the proposed development can be suitably serviced by way of wastewater drainage infrastructure and that it will not pose a risk to public health.

7.5. **Appropriate Assessment:**

- 7.5.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.6. **Procedural Issues:**

- 7.6.1. Following a site inspection on 18th December, 2017 in respect of the aforementioned appeal I can confirm that significant works on the construction of the '*proposed extension*' as outlined in red on the submitted drawings (distinguishable from that aspect of the proposal for which retention is sought as outlined in blue) have already been carried out on site. These include the undertaking of groundworks, the laying of foundations and a floor base, the completion of the external blockwork walls, the installation of fenestration etc., and the commencement of roofing works. The subject appeal relates to an application which includes for 'permission' for '*an additional single storey rear extension*' as opposed to 'permission for retention' (and completion) of said extension and, therefore, it is clear that the public notices and the application documentation do not reflect the situation as currently exists on site. Consequently, I am of the opinion that the Board is precluded from further consideration of the application and appeal.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. On the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that effluent from the development can be satisfactorily treated and / or disposed of on site. The proposed development would, therefore, be prejudicial to public health.
2. The public notices submitted in connection with the planning application refer to an application for “permission for an additional single storey rear extension”. The application documents submitted to the planning authority also refer to the application as providing for “permission” for the additional single storey rear extension. Works on the construction of the proposed extension have already been carried out. Therefore, the public notices of the development and the application documents do not properly describe the nature of the application, which should be in respect of an application for retention (and completion) of the proposed extension. Accordingly, the application does not accord with the provisions of Articles 18(1)(c) and 22(1) of the Planning and Development Regulations, 2001, as amended, and the Board is precluded from further consideration of the application and appeal.

Robert Speer
Planning Inspector

29th December, 2017