



An
Bord
Pleanála

Inspector's Report 300183-17

Development	Construction of a split dwelling house with overall height of 3722mm and all associated works.
Location	Circular Road, Dunmore East, County Waterford.
Planning Authority	Waterford City and County Council.
Planning Authority Reg. Ref.	17/635.
Applicants	Eamon and Christine Power.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant	Eamon and Christine Power.
Observer(s)	None.
Date of Site Inspection	27 th March 2018.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The appeal site is located in the built up area of Dunmore East approximately 150 metres north of the centre of the village with frontage onto Circular Road which defines the site's northern boundary. The appeal site which is irregular in configuration is part of the rear garden area associated with Sunrise Cottage, a single-storey thatched cottage fronting onto the Dock Road. Sunrise cottage is part of a terrace of 5 single storey thatched cottages fronting onto the Dock Road. Immediately to the south of the application site is a development of three dormer style detached dwellings. To the north east of the site is the rear garden belonging to one of the adjoining single-storey cottages. There are existing garages fronting onto to Circular Road either side of the road frontage of the application site. The appeal site and Circular Road are elevated in relation to the level of Dock Road with a difference of approximately 6 metres in ground levels between the two. At present the site is used for storage.
- 1.2. There is a shed to the rear of Sunrise Cottage between the application site and the rear of the existing dwelling, which is not part of the application site. On the opposite side of Circular Road there are a number of two-storey detached dwellings with the housing development 'The Harbour Village' located to the west of the appeal site.
- 1.3. The site has a stated area of 0338 hectares.

2.0 Proposed Development

- 2.1. The proposal as submitted to the planning authority on the 30th of August 2017 was for the construction of a split dwelling house with overall height of 3722mm and all associated works. The stated area of the proposed dwelling is 71m². The split level which incorporated to finished floor levels takes into account a fall in level southwards on the site with a variation of 708mm between the northern finished floor level and the southern finished floor level. The dwelling is located in the northern area of the site.
- 2.2. The dwelling is of a modern design and construction with a low angled monopitch roof. Given the configuration of the site the western elevation is curved. There are windows on all elevations.

- 2.3. The northern roadside elevation is set back 2800mm from the road edge. It is proposed to remove the existing boundary and provide a footpath and to construct a new rendered wall along the revised boundary. There is also provision for a pedestrian access along the new front boundary. There is provision for a vehicular access at the northwestern corner of the site with provision for two on-site parking spaces private open space is primarily located to the rear (south) of the proposed dwelling.
- 2.4. It is proposed to connect to existing services.
- 2.5. A cover letter was submitted with the application referring to the planning history of the site and that the current proposal addresses a refusal of permission by the Board. A conservation report is also submitted indicating that the proposed development will not affect the character of Sunrise Cottage a protected structure located on Dock Road.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to refuse planning permission for the development. two reasons were stated;

The first reason refers to the construction of walls at the rear of the site which are stated as being unauthorised and that the proposed development would relate to this unauthorised development and the planning authority are precluded from granting permission in these circumstances.

The second reason refers to the site characteristics, site levels and that the proposed development would have an overbearing visual impact on the residential amenities of adjoining dwellings to the south, east and south east and would seriously injure the residential amenities of adjoining properties.

3.2. Planning Authority Reports

3.2.1. Planning Report

The planning report dated the 19th of October 2017 refers to:

- The site history

- relevant provisions of the current development plan;
- submissions received;
- an appraisal of the development;
- reference is in the appraisal to the acceptance of the principle of the use given the zoning of the site;
- reference is made to the presence of boundary walls in excess of 2 metres which are newly constructed and appear to be unauthorised;
- refusal of permission is recommended.

A subsequent planning report recommends further information relating to the planning history; details relating to the wastewater treatment plant of the overall development and a report in relation to water supply.

The planning report dated the 10th of July 2017 refers to the further information as submitted and refers to matters specific to the appeal site. In particular, it is indicated that this particular site differs from the other two applications as the layout did not provide for a site at this location. Reference is made to a previous permission for a change of house type on this particular site PD06/1639 and the application was assessed as a change of house type when it was an additional site.

Notwithstanding the site history it is indicated that the site is within the green belt and cognisance should be taken of current rural housing policies. A material contravention of the plan is referred to if permission is reconsidered. Refusal was recommended.

3.2.2. Other reports.

The conservation officer in a report dated the 18th of October 2017 refers to inadequacy of information to assess its relationship to other buildings in the area in particular Sunrise Cottage a protected structure. There are concerns in relation to the overbearing relationship of the proposed development to the adjoining development. Further information was recommended on a range of matters.

3.3. Other submissions.

A submission was made from the residents of the area referring to the development indicating that that the solution to the height issue has resulted in a substandard roof

design which detracts from the architectural interest of the protected structures and the presence of additional buildings in the area over the years is not an excuse to degrade the area further. There is no indication of the relationship of the proposal to the buildings in the adjoining area. There is no indication of the impact of excavation and the issue of fire safety is raised. Issues remain in relation to private amenity open space.

4.0 Planning History

4.1. The site has a planning history.

4.2. An Bord Pleanála Ref. PL24.218389/ Planning Authority Reg. Ref. 05/847.

Permission refused for a two-storey dwelling, vehicular entrance point and associated site works on the 18th of December 2016 for the following two reasons

1. Having regard to the narrow width of the site, the location of the part two storey dwelling in an elevated position relative to the adjoining dwellings and in close proximity to the private amenity space serving the adjoining dwellings, the proposed development would have an overbearing visual impact on the adjoining dwellings to the south, east and south east, and would result in overshadowing of the rear amenity space associated with adjoining dwellings. The proposed development (taking into account the need for high boundary walls) would seriously injure the residential amenities of adjoining properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site layout provides for two off-street car parking spaces located parallel to the Circular Road. Circular Road is a narrow road without footpaths serving a number of existing dwellings. The layout of the parking spaces will result in the generation of awkward turning movement resulting in the obstruction of other road users (vehicular and pedestrian traffic). The proposed development would, therefore, constitute substandard development and be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The current plan is the Waterford County Development Plan 2011-2017.
- 5.1.2. The site is located within the development boundary of Dunmore East on the zoning map and written statement as outlined in volume 2 of the plan. The site is zoned R1 – Protect amenity of existing residential development and provide new residential development – medium density.
- 5.1.3. Sunrise Cottage to the rear of the proposed development is a protected structure RPS 112.
- 5.1.4. Chapter 10 of volume 1 of the plan relates to Development Management and outlines guidance and standards in relation to development.

6.0 The Appeal

6.1. Grounds of Appeal

The appellants in a submission dated the 12th of November 2017 refers to:

- The appellant indicates that the current proposal has addressed the reasons of refusal stated in a previous Board decision.
- The dwelling has been relocated and the mass considerably reduced.
- An extensive shadow study was commissioned indicating the proposal will create no overshadowing of the adjoining dwellings.
- The dwelling has been relocated living a space of 2.5 metres to one side and 4.1 metres to the other side of the dwelling and 15.3 metres to the dwelling at the rear.
- The elevated position of the dwelling of the previous dwelling is addressed by reducing the ground level and the mass is also reduced.
- The private amenity space of the three cottages is to the front of these cottages and cannot be seen from the proposed development.

- Reference is made to boundary changes from the original boundaries and that the distance to the Wilsdons' cottage to the east from the proposed dwelling is over 19 metres.
- The height of the proposed dwelling is reduced as not to stick its head above the boundary walls and is not visible from any adjoining sites and therefore will not have any overbearing impact; will not give rise of overlooking or overshadowing.
- The site is a brownfield site and completes the streetscape on Circular Road.
- The proposal is in keeping with the pattern of development in the area.
- A further submission in the grounds of appeal refers to the planning history and background to the development.
- The Sunrise Cottage site and the appeal site have been traditionally separate sites and the current appeal site is not part of the Sunrise Cottage site.
- The current appeal site has been used for light industrial activities relating to fishing and had three derelict buildings.
- Reference is made to the reasons for refusal.
- In relation to reason no.1 the wall to the east was constructed by the owner of Sunrise Cottage and does not form part of the appeal site. The wall was built for security after the demolition of derelict buildings which were of a greater height. It is proposed to build a new 2-metre-high wall on this boundary.
- In relation to the southern boundary wall reference is made to the planning history of the site to the south and to issues arising along the common boundary arising from alterations to site levels and issues of safety. It was obvious that a boundary wall was required and this view was conveyed to the planning authority.
- In the course of discussions with the planning authority there was never any indication that the construction of a boundary wall on the appeal site to provide for protection and security of the site would require planning permission.

- There is a 2-metre-high wall along the western boundary and another on the northern boundary of the appeal site which did not appear to require planning permission.
- Timber fences 2 metres in height were erected along the southern boundary which blew down and had to re-erected and buildings along the boundary became derelict and dangerous and had to demolished.
- For safety and insurance purposes a 2-metre-high wall was erected to replace the timber fence.
- Works carried out that do not affect the character of protected structure can be carried out and it is contended that the construction of the 2-metre-high wall falls into this category.
- The walls are not unauthorised have been constructed to a high standard are only 2 metres in height and afford mutual privacy between the adjoining sites.
- The submission includes maps and photographs indicating the presence of buildings and boundary treatments in support of the stated grounds of appeal.

6.2. Response to the Grounds of appeal

No response received.

7.0 Assessment

- 7.1. Having regard to the submissions received and the documentation submitted the primary issue in relation to this appeal relates to the acceptability of the nature of the development as proposed in particular in the context of policy and national guidance and also considerations specific to the site itself in particular design and impact on the adjoining properties and area.
- 7.2. In relation to the principle of the development the site is within an area zoned residential and the principle of the proposed use is accepted and I note this is also acknowledged by the planning authority. The primary issues in this appeal are site specific considerations.
- 7.3. Siting, design and impact on residential amenities.

- 7.3.1. In relation to the design as submitted, the design is a response to a previous refusal of permission on the site. The site by virtue of its configuration, the nature of the levels on the site and the location of buildings on adjacent sites does present challenges to address the reasons stated and to provide for a design which would not present an overbearing visual impact on adjacent properties.
- 7.3.2. I have examined the details and drawings submitted with the previous application on the site. The current proposal is set back from the road and parking and circulation within the site is addressed. A new design concept has been submitted.
- 7.3.3. The design as submitted provides for a modern design which takes into account the characteristics of the site in relation to configuration and the fall in level. The design provides for a split level which incorporated to finished floor levels takes into account a fall in level southwards on the site with a variation of 708mm between the northern finished floor level and the southern finished floor level. The proposed dwelling incorporates a low angled monopitch roof and given the configuration of the site the western elevation is curved.
- 7.3.4. The site sections submitted originally with the application to the planning authority and set out in further clarity in the drawings submitted with the grounds of appeal indicate the scale of the proposal and its relationship to adjoining properties. Information is also submitted in relation to issues of overshadowing. Based on my site inspection and an examination of the documentation submitted I would conclude that no issues of overlooking arise if the perimeter walls existing and proposed are in place. No issues of overshadowing would arise. In overall terms the mass of the building would be lower than many of the existing structures comprising of dwelling and garages and the development would not give rise to an overbearing visual impact.
- 7.3.5. The issue arises as to whether the design as submitted is an appropriate design response in the context of the overall area. The pattern of development is traditional dwellings with A pitched roofs and the dwellings in the area are a mix of heights and designs varying from two storied to cottages. The area has an absence of formality with a random nature to the location of buildings. This presents an opportunity on the appeal site for a design with less stricture.

- 7.3.6. As already indicated the site presents its own challenges and a traditional response is not necessarily the appropriate response. In this context a design response of the nature of the current proposal can be considered. The site is relatively shielded and secluded in terms of the road frontage and only visible in its immediate surrounds. The application of a split level is an appropriate response to the site levels. Although there is a protected structure to the east the site does not have a strong visual relationship to this structure. The site is not within an Architectural Conservation Area.
- 7.3.7. In relation to adjoining structures the dwelling is positioned to provide maximum separation from adjacent dwellings and the nearest structures which are garages. The proposed dwelling at minimum is 2500mm from a common boundary which in a built up area is more than adequate.
- 7.3.8. The area of private amenity open space for the proposed development is located to the rear of the property which also incorporates a car parking space. The area provided is I consider adequate.
- 7.3.9. Issues are raised in relation to boundary finishes and I will consider this matter separately in this report as they arise as a stated reason for refusal.
- 7.3.10. I would accept that the design is not conventional and differs from the prevailing pattern but the design is a reasonable design response to the actual site and in overall terms I do not consider that it would detract from the area.
- 7.3.11. I consider the current proposal addresses matter which arose in the previous appeal on the site.

7.4. Traffic

- 7.4.1. Traffic safety was referred to in the Boards reasons for refusal of the previous application/appeal on the site.
- 7.4.2. The development provides for a vehicular access and a pedestrian access. Two on site car parking spaces are provided and there is also provision for a footpath along the site's road frontage. The rear open area has provision for one of the spaces and the other parking space is located along the western boundary. The layout as presented provides for vehicles to enter the site and there is provision for vehicles to

turn and manoeuvre internally within the site. I would have no objections on traffic grounds.

7.5. Site boundaries.

- 7.5.1. The issue of boundary walls is referred to in the first reason for refusal in particular that the southern and eastern boundary walls as constructed on site are unauthorised and that consequently the planning authority are precluded from granting permission.
- 7.5.2. The appellant in the grounds of appeal has referred to this issue outlining the history in relation to the appeal site, adjacent sites and the construction of boundary walls.
- 7.5.3. There is no dispute that concrete block walls have been constructed, the walls where constructed are in one section plastered and in other areas have rough scudding. Walls are proposed along sections of the boundary where there is currently no wall and has a timber screening and the drawings refer to part of the boundary, the eastern boundary, as a proposed wall but there is a wall constructed along this section of the perimeter.
- 7.5.4. It is difficult to state an definitive position in relation to unauthorised development as it would appear based on the grounds of appeal submission that an adjoining landowner built one section of the wall and that this wall is part of the adjoining landowner's site; there were buildings along the boundary of a greater height than the walls constructed and proposed; there was a timber fence along another section which was replaced by a wall after the fence was blown down; the appellants was in discussions and correspondence with the planning authority in relation to the boundaries of the site and there is photographic evidence submitted in support of these matters submitted in the grounds of appeal.

There is also the issue of exempted development but it would appear that the site does not have a history of residential use and was used for light industry as indicated by the appellant but the walls where constructed form rear boundaries of existing dwellings which may possibly indicate works which are exempted development. The walls however adjoin and/or form part of the rear areas of residential sites. The issue of whether all or part of the constructed walls is or is not unauthorised is therefore not definitive and the planning authority has not responded to the grounds of appeal.

- 7.5.5. Permitting the development would not necessarily authorise any unauthorised development and if there are matters relating to unauthorised development the planning authority can resort to enforcement powers under the planning acts but the submitted drawings do refer to sections of the perimeter where walls are proposed and not constructed and also to a section of wall which may not form part of the site and another section which is indicated as proposed but which is constructed and would appear to replace a previous timber fence which itself may or may not have been authorised. The public notices also refer to all associated site works which could be considered to include boundaries.
- 7.5.6. I have no objections to the wall proposed and constructed in the context of the site. They provide screening and prevent overlooking and also are at a height which is not excessive. If the walls were all completed, capped and plastered I do not consider any visual amenity issues arise.
- 7.5.7. The Board if considering a grant of permission could consider whether a revised notice providing for the retention of boundary walls should be submitted and/or an advisory note stating the provisions of section 34(13) of the Planning Act should be added at the end of a decision to grant permission.
- 7.5.8. I however consider based on the drawings submitted and other documentation that permission could be granted for the boundaries as stated.
- 7.6. Conservation.
- 7.6.1. I note that a third party submission was made in relation to its relationship to adjacent development and also the report of the conservation officer of the planning authority in particular referring to Sunrise Cottage. The conservation officer in a report dated the 18th of October 2017 refers to inadequacy of information to assess its relationship to other buildings in the area in particular Sunrise Cottage a protected structure. There are concerns indicated in relation to the overbearing relationship of the proposed development to the adjoining development.
- 7.6.2. The applicant also submitted a report in relation to conservation indicating that the proposed development will not affect the character of Sunrise Cottage a protected structure located on Dock Road. It was also indicated that the Sunrise Cottage site and the appeal site have been traditionally separate sites and the current appeal site is not part of the Sunrise Cottage site.

- 7.6.3. From a visual inspection although there is proximity between the two sites but the appeal site is orientated towards Circular Road and Sunrise Cottage is orientated to Dock Road and there is no discernible relationship between the two sites and I do not consider that the proposal as submitted in relation to scale and mass would have I consider have no overbearing impact on Sunrise Cottage or the area in general.

8.0 Recommendation

- 8.1. It is recommended that permission for the development be granted for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the pattern of development in the vicinity which is an established residential estate, the planning history of the overall site and the nature and scale of the proposed development, it is considered that the development will not contribute to an extension of urban sprawl, would not be contrary to the proper planning sustainable development or injurious to the visual amenities of properties of the area.

Having regard to the pattern of development in the vicinity and the nature and scale of the proposed development appeal site, it is considered that the development would not be contrary to the proper planning sustainable development or injurious to the residential amenities of properties in 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 as amended by the further plans and particulars submitted on the 21st of February 2017 and the 19th of June 2017, 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 interests of clarity

- 2 Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity

- 3 The roof colour of the proposed house shall be blue-black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity

- 4 The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) the establishment of a hedgerow along the side and rear boundaries of the site,

(b) any walls forward of the front building line shall not exceed 1.2 metres in height and

(c) a timescale for the implementation of the planting and landscaping.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

- . 5 Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. Drainage arrangements, shall comply with the requirements of the planning authority for such works and services. Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health

- . 6 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

- 7 The site shall provide for a single vehicular entrance located onto the eastern boundary of the site. No other vehicular access shall be constructed onto the other estate road at the northwestern boundary of the site. A pedestrian access on this boundary can be constructed on this boundary. The formation of the vehicular access shall be constructed in accordance with the requirements of the planning authority.

Reason: In the interest of orderly development and traffic safety

- 8 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 amenities of property in the vicinity.

- 9 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste

Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

- 10 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Derek Daly
Planning Inspector

3rd May 2018