



An
Bord
Pleanála

Inspector's Report ABP-300192-17

Development	Construction of a two storey dwelling house with connection to public sewer and all associated site works.
Location	High Road, Ardbrack, Kinsale, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	17/4999
Applicant(s)	Dylan Brady
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	CB & MM Buckley
Observer(s)	None.
Date of Site Inspection	22 nd February 2018
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1.1. The appeal site, with a stated area of 0.086 ha, is located in Ardbrack, off the 'Higher Rd', 1km east of Kinsale town centre in County Cork.
- 1.1.2. The site comprises part of the rear garden of an existing large two storey dwelling house. The host dwelling which dates to the 1990's is of no particular architectural merit. The large sloping rear garden and the rear boundary, runs parallel with an old footpath. Underneath the footpath, on a much lower level there is a 3rd party property (the appellants property). The, of irregular shape, appeal site is elevated on sloping ground, and has spectacular views south over James's Fort and the Kinsale Harbour.
- 1.1.3. Levels across the site fall sharply in a southerly direction. The host dwelling has a FFL of 23.320m OD. Stated levels across the site itself range from 22.5m OD – 15.120 m OD (6.38 m differential). There is a 7m dip in ground levels between the site and closest dwelling (appellants dwelling).
- 1.1.4. It is proposed to access the appeal site via an existing entrance serving the host dwelling from Higher Road (Scilly High Road) to the north. The shared entrance would run along the western gable of the host dwelling. The third-party dwelling is accessed of Lower Road (Scilly Walk / Lower Scilly Road) to the south. There is a pedestrian pathway running outside of the southern boundary, between the appeal site and the neighbouring third party's dwelling.
- 1.1.5. The site incorporates timber sleeper steps, rock borders, dense vegetation and mature hedges. It is heavily overgrown in particular in the lower southern portion.
- 1.1.6. The area is residential in nature with large detached and semidetached dwellings incorporating balconies and roof terraces at first floor surrounding the appeal site.

2.0 Proposed Development

- 2.1. The proposal comprises permission for:
 - A two storey house (225 m²)
 - Connection to existing infrastructure services in the area.

3.0 Planning Authority Decision

3.1. Decision

Following a request for Additional Information with respect to (i) ownership of the laneway, (2) owner's commitment and willingness to decommission existing septic tank and (3) surface water calculations, planning permission was granted subject to five number conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planners Report sets out that from a visual and residential amenity perspective the proposed development is satisfactory.
- Engineering Report: No Objection subject to condition.

3.2.2. External Reports

- Irish Water (IW): No objection
- Third Party Observations

Two number objections were submitted to the planning authority. Concerns raised refer to a claim supported by maps etc. that the neighbours own the laneway located to the rear where the proposed gravity sewer pipe is proposed.

4.0 Planning History

The host dwelling was built after Permission was granted for a house under Planning Register No.94/2384.

5.0 Policy Context

- 5.1.1. Sustainable Residential Development in Urban Areas, 2009
- 5.1.2. Quality Housing for Sustainable Communities, 2007
- 5.1.3. Development Plan

In the Bandon Electoral Area Local Area Plan 2011 the site is within the Kinsale Environs 'development boundary' in a zoned 'existing built-up' area.

In the Bandon – Kinsale Municipal District Local Area Plan 2017 the site is within the Kinsale Environs 'development boundary' in a zoned 'existing built-up' area.

The site is also governed by the policies and provisions contained in the Cork County Development Plan 2014.

The following sections of the County Development Plan are of relevance:

Policy HOU 3-1 Sustainable Residential Communities

Policy HOU 3-3 Urban Design

Policy ZU 3-1 Encourages development that supports the primary land use i.e. residential.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The issues raised within the third-party appeal by CB and MM Buckley 'Miramare' are summarised as follows:

- Concern of inadequate provision for storm water drainage from the site
- Risk of damage it will cause to appellants property and house foundations, 'Miramare', located to the south of the proposed development.

Unclear treatment of storm water drainage for the existing dwelling, "Indigo"

- Concern that storm water would flow into the proposed Soakaway.

- The current "Indigo" site of 0.2 hectares in area is situated on sloping ground. Due to the slope of the site, the run off from the current "Indigo" site flows directly onto the appellants property to the south.
- Have measured the flow of water from the current "Indigo" site over a number of months. In good weather, there is little flow. However, in heavy rainfall the flow is heavy with 60 L/Hr – 120L / Hr recorded.

Poor treatment of storm water drainage for the proposed new dwelling on the "Indigo" site

- A further development on this site will exasperate storm water problem.
- The level of the ground floor of appellants home is some 7 metres below the lowest point of the appeal site
- The appellants have already had to take measures to alleviate the flow of water and have built trenches by the rock to the east and west to prevent the water flow entering under the foundations of their house.
- Submit that the proposed Soakaway does not adequately address the storm/rain water requirements.
- The proposed Soakaway will be located only a few metres from appellants house.
- The Soakaway design has not taken into account where the water will go should it overflow.

Alternate Solution available

- To avoid rainwater flowing from "Indigo" (including the proposed development) to the appellants property, it could be collected and pumped to the surface water drain on the high road.
- There are road gullies located outside the neighbouring house, "Ocean Breeze", located to the west of the main entrance to "Indigo". Road gullies are also located outside No 6 and No 7 on the High Road.

Appeal accompanied with letter of objection submitted to the p.a. I note concerns regarding plans to insert a sewer drain into the pedestrian pathway, outside of the control of the applicant, was resolved by way of further information. It is now proposed to pump sewage to the High Road sewer connection, north of the site.

6.2. Applicant Response

6.2.1. A response was submitted by TPlan Planning Consultants on behalf of Dylan Brady it is summarised as follows:

- Following a Request for Further Information and further assessment the area Planner and the area Engineer recommended a grant of permission.
- Report from DJF Engineering Services Ltd attached
- There are no proposals to alter the existing surface water system to the existing dwelling known as “Indigo”.

Groundwater flows into the “Miramarc” property, following rainfall, regardless of the construction on the “Indigo” site are due to:

- a) The location of the “Miramare” property at the bottom of a slope
 - b) The permeable soils on the slope above the “Miramare” property which provide little attenuation of surface water flows
 - c) The significant cutting at the site which will always intercept groundwater flows above the impermeable bedrock
 - d) the laneway above the “Miramare” property, which will act as a conduit for surface water in times of heavy rainfall
- The proposed development will not alter the above factors.
 - The proposed development will improve attenuation on the “Indigo” site by:
 - a) Using permeable paving with granular open stone underneath to hold water in times of heavy rainfall
 - b) Harvesting rainwater from the proposed dwelling roof and storing this in a tank for reuse
 - c) Constructing a suitably designed and sized soakaway designed to store surface water and allow gradual discharge to groundwater
 - Pumping surface water is not a sustainable proposal and would pose an increased risk of flooding of the “Miramare” property in the event of mechanical or electrical failures coinciding with a period of heavy rainfall.

- It is proposed that the proposed surface water drainage be amended to include two soakaways with an additional soakaway located further away from the “Miramare” property to the northwest of the proposed dwelling.
- The revised proposal has the following key features to reduce risk of flooding down slope of the proposed development and improve the attenuation to rainwater and reduce groundwater flows into the “Miramare” property:
 - Permeable paving
 - Rainwater harvesting
 - Soakaways designed based on site testing in accordance with BRE Digest 365
 - Soakaways designed for 1 in 100 year rainfall events plus 10% increase for climate change
 - Soakaway nearest the “Miramare” property designed to double the depth required.

6.3. Planning Authority Response

- No response received.

6.4. Further Responses

A response to the first party’s response was received from CB and MM Buckley ‘Miramare’. It is summarised as follows:

- Concern with respect to capacity of Soakways. The area is not suited to use of soakways due to presence of impermeable rock.
- Concern about rain water flow from the car port, which would also contribute to water flow into soakways.
- Permeable paving and trench soakways are both prone to clogging from grime and debris. Maintenance plans required for permeable paving and trench soakways.
- Water harvesting commendable, however detail provided is inadequate.

- Measurements of flow: Real v's calculated. The measurements provided by the third party are actual run off water measurements taken during heavy rainfall. No calculations or methodology used, calculations and methodology can be prone to error.
- Proposed Solution is to collect surface water and pump it to the high road.

7.0 **Assessment**

I consider the key issues in determining this appeal are as follows:

- **Principle of the Development on the Site**
- **Layout, Design and Visual Impact**
- **Storm Water Drainage**
- **Appropriate Assessment**

7.1. **Principle of the Development on the Site**

- 7.1.1. The site is located within the Kinsale Environs 'development boundary' in a zoned 'existing built-up' area. It is proposed that the current property "Indigo" of some 0.2 hectares, be divided into two parts. The proposal involves subdividing the existing plot and constructing a dwelling, with shared access off Higher Road, at a lower ground level to the host dwelling within its rear garden.
- 7.1.2. The planning authority report sets out that, while it is 'difficult to handle sympathetically', there is 'a precedent for this kind of project in the surrounding area at this location in Ardbrack, off the Higher road.'
- 7.1.3. An additional house is acceptable in principle within this zoning objective, subject to compliance with development management criteria set out in the Development Plan. Policy ZU 3-1 of the Cork County Development Plan Encourages development that supports the primary land use i.e. residential.

7.2. **Layout, Design and Visual Impact**

- 7.2.1. Layout, design and visual impact have not been raised as an issue by the third party. It will not have any visual impact from the Higher Road from which the site has a vehicular access. The site is backland and positioned at a lower ground level (some 7.65

m OD lower) than the Higher Road, therefore it would not be visible. It would also not have any significant visual impact, appear dominant and overbearing, when viewed from the Lower Road or Kinsale Harbour, given the proposed layout, levels across the site, screening and pattern of development in the vicinity.

- 7.2.2. I agree with the planning authority that the proposed two-storey house, can be assimilated into this site, regard being had to height, bulk, position on site, ground level changes, adjoining dwellings and screening. It would not have a negative impact upon residential amenity enjoyed by the adjoining 'Miramare', appellants dwelling, to the south or, 'Indigo', the host dwelling to its north.
- 7.2.3. The contemporary design of the proposed dwelling integrates well with adjoining existing permitted dwellings to the east and west of 'Indigo'. It has an aesthetically pleasing hardwood timber finish proposed to the front façade and graphite coloured zinc standing seam, flat roof, finish. All existing planting and boundaries are to be retained and supplemented with additional screen planting, regard is had to the Site Plan Drg. No. 15069-101 submitted to the planning authority on the 15th March 2017
- 7.2.4. Overall, I consider that the design, which is to a high standard, taken together with the size of the site, screening and development in the vicinity, is such that the proposal would not give rise to overdevelopment of the site, would not be visually incongruous or diminish residential amenity so as to warrant a refusal of permission.

7.3. **Storm water Drainage**

- 7.3.1. The principle concern expressed by adjoining property owners of 'Miramare', to the south, is in relation to surface / storm water.
- 7.3.2. It is submitted that the proposed Soakaway, located only a few metres from appellants house, does not adequately address the storm/rain water requirements. No contingency for overflow and given the differential in ground level between the appeal site and the appellants property (some 7m) and impermeable ground rock, concern is expressed that storm water will flow directly into the appellants property.
- 7.3.3. The third party have suggested that to avoid rainwater flowing from the proposed development site to the appellants property, surface water could be collected and pumped to the surface water drain on the High Road.

7.3.4. The first party submits that there are no proposals to alter the existing surface water system to the appellants dwelling. That the proposed development will improve attenuation on the “Indigo” site (subject appeal site) by:

- a) Using permeable paving with granular open stone underneath to hold water in times of heavy rainfall
- b) Harvesting rainwater from the proposed dwelling roof and storing this in a tank for reuse
- c) Constructing a suitably designed and sized soakaway designed to store surface water and allow gradual discharge to groundwater

7.3.5. It is contended pumping surface water is not a sustainable proposal and would pose an increased risk of flooding of the “Miramare” property in the event of mechanical or electrical failures coinciding with a period of heavy rainfall.

7.3.6. In response to the third party’s concerns it is proposed that the surface water drainage be amended to include two soakaways with an additional soakaway located further away from the “Miramare” property to the northwest of the proposed dwelling and the soakaway nearest the “Miramare” property designed to double the depth required.

7.3.7. I note the proposal incorporates:

- Permeable paving
- Rainwater harvesting
- Soakaways designed based on site testing in accordance with BRE Digest 365
- Soakaways designed for 1 in 100 year rainfall events plus 10% increase for climate change

7.3.8. The area engineers report on file has no objection to the proposal subject to conditions with respect to on-site effluent disposal.

7.3.9. It is my opinion, that no clear evidence has been submitted that would indicate that the proposed development would be at risk of exacerbating surface water / flood water discharge onto the adjoining property to the south. Given the proposals for storm water and surface water proposed and subject to the development being carried out to an appropriate standard, in accordance with requirements and

conditions, I do not consider it appropriate to refuse planning permission on grounds that the proposed development would cause flooding or be contrary to public health.

- 7.3.10. I recommend that a condition be attached requiring that storm water runoff shall be retained on site. Full details and supporting calculations shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. All soakaways must be designed in accordance with BRE Digest 365 or similar as approved by the planning authority.

7.4. Appropriate Assessment (AA)

- 7.4.1. There are no European sites in the vicinity. It is proposed to connect to public foul sewers. The proposed development will not have any significant impact on European sites. The planning report on file concludes that appropriate assessment is not required.
- 7.4.2. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

- 8.1.1. I recommend that planning permission should be Granted subject to the following conditions.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the land-use zoning of the site, the existing pattern of development on the site and in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be injurious to visual amenity of the area, be unacceptable in terms of surface water and storm water disposal or injure residential amenity of property in the vicinity. The proposed

development 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, as amended by the further plans and particulars submitted on the 19th September 2017 and further plans and particulars submitted to the Board on the 19th December 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 interest of clarity.

2. The host dwelling and the new dwelling permitted by way of this grant of planning permission shall both be used solely as single residential dwelling units.

Reason: In the interest of residential amenity.

3. The windows serving all bathrooms, en-suites and walk-in wardrobes shall be permanently fitted and maintained with obscure or stained glass.

Reason: In the interests of proper planning and sustainable development of the area

4. (a) Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

(b) Full details and supporting calculations for surface water / storm water shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. All soakaways must be designed in accordance with BRE Digest 365 or similar as approved by the planning authority.

(c) The septic tank shall be decommissioned and removed, or cleaned out and backfilled with selected granular fill and the new connection to the public sewer shall be carried out in tandem with the permitted development, and completed to the written satisfaction of the planning authority prior to the first occupation of the new dwelling.

(d) The on-site effluent disposal system shall operate two number pumps. The system shall generate an audible alarm when (a) either of the pumps fail (b) the effluent in the sump exceeds a preset level (high level alarm). The pumps shall be configured (1) to operate in rotation (2) to automatically cut in should the other pump fail. The amount of effluent pumped forward shall be metered to the satisfaction of the planning authority. The owners / occupiers of the site shall maintain in perpetuity, a maintenance agreement with the suppliers of the plant or other competent persons. A log book recording all mechanical failures, maintenance and other manual interventions shall be maintained and kept at the property for inspection by the planning authority.

Reason: In the interest of public health.

5. That all necessary measures be taken by the contractor, including the provision of wheel wash facilities, to prevent the 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. (a) The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

(b) Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 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 the interests of public safety and residential amenity

7. 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.

Fiona Fair
Planning Inspector
20/03/2018