



An  
Bord  
Pleanála

## Inspector's Report ABP-300290-17

### Development

The construction of a detached two storey dwelling with a detached garage with store area for boats, a car port, connection to existing foul and storm drainage system, a new site entrance with boundary walls and piers, bin and bike store and all associated site works

### Location

Ringcurran Rise, Ardbrack, Kinsale  
Co.Cork

### Planning Authority

Cork County Council.

### Planning Authority Reg. Ref.

17/5747

### Applicant(s)

Rob Doyle and Emma Duane

### Type of Application

Permission.

### Planning Authority Decision

Grant Permission.

### Type of Appeal

Third Party

### Appellant(s)

Group appeal by Joseph Heffernan,  
Tim and Mary Guest, Valerie King and  
Paul McGovern and Susan Skelly

McGovern.

**Observer(s)**

None.

**Date of Site Inspection**

22<sup>nd</sup> February 2018

**Inspector**

Fiona Fair.

## **1.0 Site Location and Description**

- 1.1.1. The appeal site, with a stated area of 0.115 ha, is located at the entrance to Ringcurran Rise Estate in Ardbrack, 1km east of Kinsale town centre in County Cork.

- 1.1.2. The site was formerly the location of a sewerage treatment plant which is now defunct. It is situated on high ground which falls gently from north west to south east. Levels across the site are indicated as 60.58m OD at the road to the east and rise to 63.32m OD to the western boundary.
- 1.1.3. The site is bounded to the east by the local county road L-3230, to the north by the estate cul de sac road and adjoining dwellings no.'s 1 – 4 Ringcurran Estate, No. 41 Ringcurran estate is located adjacent to the northern boundary and Fort View housing estate is located to the south and west. The adjoining dwellings No.'s 1-4 Ringcurran Rise are two storey and located on higher ground than the subject site, No. 41 Ringcurran Rise is single storey and is also located on higher ground than the appeal site.
- 1.1.4. The appeal site which is accessed from the estate road via high double entrance gates is bounded by a low stone wall and high metal railing (approx. 2m in height) along its northern and eastern boundaries and in the main by 1.8m high boundary walls to the northern and southern boundaries.
- 1.1.5. There is mature planting and trees located along the southern boundary and in part to the north-eastern boundary.

## **2.0 Proposed Development**

- 2.1. The proposal comprises permission for construction of:
- A detached two storey dwelling (311 sq. m)
  - A detached garage with store area for boats (84.68 sq. m),
  - Bin and Bike Store (11 sq. m)
  - A car port,
  - Connection to existing foul and storm drainage system,
  - A new site entrance with boundary walls and piers,
  - All associated site works

The proposal was amended by way of Further Information with the boat store eliminated, a reduction in the FFL and the dwelling shifted 500mm to the east.

## 3.0 Planning Authority Decision

### 3.1. Decision

Following a request for Additional Information with respect to (1) changes to the levels and layout for amenity reasons, (2) changes to site boundaries (low walls) (3) clarification regarding sightlines and (4) the presence if any of a trunk sewer, planning permission was granted subject to three number standard conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The Planners Report sets out that the proposed 11.325m separation distance / levels differential with the nearest house is adequate to preserve ambient daylight, outlook and privacy between existing and proposed occupiers.
- Engineering Report: Report prior to F.I. highlights issues in respect of decommissioning of the wastewater treatment facility, possibility of a trunk sewer traversing the site and access from the proposed boatshed onto the L-3230. No subsequent report on file.
- Archaeologist Report: It is considered that the proposed development is an adequate distance away from the archaeological sites. No archaeological issues subject to a condition with respect to landscaping to the SW and SE to provide screening between the development and Saint Catherine's Church (a listed building).

#### 3.2.2. External Reports

- Irish Water (IW): No objection
- Third Party Observations: Five number objections were submitted to the planning authority. Concerns raised are similar in nature to those raised in the group third party appeal summarised below.

## 4.0 Planning History

None of relevance.

## 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

The relevant statutory Plan is the Bandon – Kinsale Municipal District Local Area Plan 2017

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.

Lands adjoining to the east, opposite the entrance to the Ringcurran Estate are zoned (KS-C-04) for a new Primary School.

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 (group appeal) by Joseph Heffernan, 41 Ringcurran Rise, Kinsale, Tim and Mary Guest, 4 Ringcurran Rise, Kinsale, Valerie King, 2 Ringcurran Rise, Kinsale and Paul McGovern and Susan Skelly McGovern, 5 Ringcurran Rise, Kinsale are summarised as follows:

- No objection in principle to the construction of a dwelling on the appeal site.
- Concerns surround the scale, height and design of the proposed dwelling.

#### **Impact on adjacent properties**

- Negative Impact upon privacy and overlooking of No.2 (across the cul de sac to the north) and No. 41 Ringcurran estate (adjacent to the west).
- Also concern with respect to negative impact on houses Nos. 4 and 5 opposite to the north.
- While it as understood that development was always likely on the site in question, the understanding and expectation was for a one storey development in line with the current bungalows at Ringcurran.
- Concern that the flat roof section proposed could be used as a balcony, thus giving rise to overlooking.

#### **Negative Visual Impact**

- Negative impact upon Charles Fort. St. St. Catherine's Church is opposite the site, and the proposal is out of keeping with the rustic charm of this ancient place of worship.
- While the design seeks to ensure that the house will not have an impact on the skyline as seen from a distance, it will be a major visual intrusion in the local area.

- The proposed design incorporating flat-roof, concrete, glass and rendered bulk will clash with existing houses, aggravated by the fact that the site is located at the entrance to the estate on a highly visible site.
- The area is semi-rural, and the development is in the body of an established estate of properties conforming to a particular design and size.
- Proposal if permitted would set a negative precedent.

### **Sewerage Infrastructure**

- The Area Engineers report is inconsistent.
- Concerns raised with regard to the presence of sewage apparatus or pipe work running through the site, have not been resolved.
- Clarity is required about the presence if any of the trunk sewer that might be cutting through the site, and a full methodology on how all the sewage apparatus in the ground will be removed and disposed of safely.

## **6.2. Applicant Response**

6.2.1. A First Party response was submitted it is summarised as follows:

### **Impact on adjacent properties**

- Separation distance of 30 meters from No. 2 and No.3 Ringcurran estate, opposing first floor windows.
- Observe the same building line as No.41 Ringcurran Estate
- Proposal reflects the existing pattern of development.
- The proposal has been adjusted by way of further information, with the height reduced and distance away from no.41 Ringcurran Rise increased.
- The majority of dwellings in Ringcurran estate are converted two storey, by way of attic conversions, and are not bungalows as stated.
- The design does not allow for any balcony on the flat roof
- Glazing referred to by the appellants is not substantial.

- If required the glazing to the northern and western sides can be obscured to avoid any overlooking concerns.
- The building line and height of the proposed house would be in line with the normal pattern of development for a housing estate.
- The First party engaged the services of Sean Desmond, local engineer to write a report outlining the current status of the disused and defunct holding tank. The engineer has clearly identified that this holding tank was not active and the applicants have submitted documentary evidence showing its decommissioning.
- Response accompanied with:
  - 3 D plans of proposed dwelling and detailed floor plans and elevations
  - A Copy of the planner's report, associated planning authority reports and draft decision.
  - Engineers Report (Desmond Consulting Chartered Engineers) on proposals for decommissioning (Sept 2017)

### 6.3. **Planning Authority Response**

- No response received.

## 7.0 **Assessment**

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

- **Principle of the Development on the Site**
- **Visual Impact / Design / Impact Upon Residential Amenity**
- **Wastewater Treatment Plant Infrastructure**
- **Appropriate Assessment**

### 7.2. **Principle of the Development on the Site**

7.3. The appeal site is located within the Kinsale Environs 'development boundary' in a zoned 'existing built-up' area, as per the Bandon – Kinsale Municipal District Local Area Plan 2017.



- 7.3.1. The site which comprises of some of 0.115 ha was the location of a sewage treatment plant which is now defunct. It is located at the entrance to the Ringcurran Rise residential estate, 1km east of Kinsale town centre. It visually forms part of the overall estate and the plot is approximately twice the area of equivalent plots within the estate.
- 7.3.2. Permission is sought to build a contemporary two storey house (311.69sq. m) store area / shed (11sq. m) with vehicular entrance off the estate road to the north. The house will be connected to the public sewer and water supply.
- 7.3.3. Policy Objective ZU 3-1 in the County Development Plan (CDP) 2014 encourages development that supports the primary land use, i.e. residential.
- 7.3.4. The proposed construction of a dwelling house with associated private open space, car parking and connection to services and the decommissioning of existing redundant sewerage treatment facilities is acceptable in principle at this location, subject to compliance with development management criteria set out in the Development Plan.

#### 7.4. **Visual Impact / Design / Impact Upon Residential Amenity**

- 7.4.1. The site abuts a long row of low hipped roofed bungalows, some of which have converted their attics. No 41, the closest dwelling, adjoining to the west (one of the appellants) is one of these bungalows with attic conversion. The dwellings across the cul de sac to the north, numbers 1 – 4 Ringcurran Rise, are two storey dwellings as are the majority of the dwellings within the Ringcurran Estate.
- 7.4.2. The subject site has a lower ground level than the lands to the north and west. The ground level falls gently from north west to south east. Levels across the site are indicated as 60.58m OD at the road to the east and rise to 63.32m OD to the western boundary. The western boundary comprises an approx. 1.8m high solid block wall for the most part with a railing over a low block wall to the front portion.
- 7.4.3. Concerns are raised with respect to overlooking and loss of privacy to the adjoining dwelling to the west (no. 41) and between opposing front first floor windows of opposing dwellings to the north. Concern is also raised with respect to the design of

the dwelling its height and finishes and interference with the character and setting of Saint Catherine's Church.

- 7.4.4. In the first instance I do not consider that the proposed dwelling would have a negative impact upon the character or setting of Saint Catherine's Church. The Church is located on the opposite side of the L3230 some distance to the south east of the site, on lower ground and is screened by trees. There are intermittent views to the church, however, this is an urbanised setting, within the settlement boundary, albeit at the edge of Kinsale.
- 7.4.5. I have noted the amendments to the design made by way of Further information submitted to the p.a. The dwelling has been relocated a further approx. 500mm from the western boundary and is now proposed to be 2.396m from the western boundary at its closest point. The FFL has been lowered by approx. 500mm from a proposed FFL of 63.54 m OD to 63.04m OD (west elevation). The boat shed has been omitted and front road side boundaries amended to 1m in height.
- 7.4.6. I am of the opinion that the proposed part two storey part single storey contemporary designed dwelling, with flat roof, render finish, is to a high standard architecturally. It has been site specifically designed and would visually be acceptable on the appeal site, given site size, established pattern of development, lower ground level than adjoining houses and zoning of the site. I am satisfied that the proposed dwelling in terms of its height (6.2m) scale, mass and finishes is visually acceptable at this location.
- 7.4.7. I consider given the change in ground level, the separation distances involved, and the nature of this residential infill site, that the proposal is acceptable in terms of opposing first floor front windows with dwellings 1 - 3 Ringcurran Rise.
- 7.4.8. With respect to overlooking to the rear garden of No. 41 I have no concern with respect to proposed ground floor windows given the boundary in place and screening proposed. However, I note the first floor en-suite and hallway / staircase glazing proposed to the western boundary. Albeit the first floor is recessed and set off the western boundary by approx. 4.6m I recommend that this glazing be obscure. The first party response has indicated that the applicants are willing to obscure this glazing.

7.4.9. Overall, I consider that the design, is to a high standard, it 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.

## 7.5. **Wastewater Treatment Plan Infrastructure**

7.5.1. Concern has been expressed with regard to possibility of a trunk sewer traversing the site and decommissioning of all existing redundant sewerage treatment facilities.

7.5.2. I note the Engineers report on file (submitted by way of F.I.) from Desmond Consulting Chartered Engineers, on 'Proposals for Decommissioning of Existing Redundant Sewerage Treatment Facilities (Sept 2017). This report sets out an initial site survey, decommissioning, decontamination, demolition, and a verification survey. It is highlighted that the controlled decommissioning of the existing redundant sewage treatment facilities is required to avoid risks to human health and the environment.

7.5.3. The report sets out that environmental protection measures are necessary to:

1. Prevent or minimise emissions of hazardous particulates or gases to the atmosphere during the decommissioning process or the removal of solid wastes.
2. Prevent the emission of hazardous substances to controlled water (surface water or groundwater)
3. Comply with all relevant requirements related to the handling and disposal of waste

7.5.4. It sets out that the redundant sewage treatment facilities on the site consist of:

- a) Inlet manhole - approx. 0.5m x 0.5m x 0.6m deep blockwork manhole
- b) Aeration tank-approx. 9.5m long x 3.5m wide x 3.5m deep reinforced concrete tank in 2 chambers

- c) Electrical control house - approx. 3m x 2m x 2.4m high blockwork building with flat roof
- d) Macerating pump chamber - approx. 1.2m dia x 3m deep reinforced concrete chamber
- e) Associated pipework

- 7.5.5. The area engineer in his report dated prior to further information being sought states that 'decommissioning of any wastewater treatment facility may be a serious enough process and it would be wise to consult with our Environment Department in this regard also; particularly with regard to the disposal of residual waste on the site'.
- 7.5.6. Given the information on file, in particular the report from indemnified chartered engineers setting out a site survey and proposals for decommissioning, decontamination, demolition, a verification survey and health and safety considerations, I am of the opinion, that subject to all relevant requirements related to the handling and disposal of waste being complied with and subsequently verification carried out by the competent authority, that being Cork County Council, that the proposal is acceptable in this regard.
- 7.5.7. I therefore see no reason to refuse permission on grounds of health and safety subject to a condition being attached which requires that the development is carried out to an appropriate standard, in accordance with requirements of the Environment Department of Cork County Council, the area engineer and IW. I recommend that a condition be attached which requires that a Construction Environmental Management Plan be put in place, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

#### 7.6. **Appropriate Assessment (AA)**

- 7.6.1. The planning report on file concludes that appropriate assessment is not required.
- 7.6.2. 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 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, give rise to a public health hazard 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 3<sup>rd</sup> October 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. (a) The windows serving all bathrooms, en-suites and walk-in wardrobes shall be permanently fitted and maintained with obscure or stained glass.
- (b) The hall / landing first floor window and the en-suite first floor window on the western elevation shall be permanently fitted and maintained with obscure or stained glass.

**Reason:** To protect residential amenity of the area.

3. 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.

**Reason:** In the interest of public health.

4. 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.

5. (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 precise proposals for decommissioning of existing redundant sewerage treatment facilities on the site, removal and disposal of residual waste, removal and disposal of redundant infrastructure associated with the sewerage treatment facility, 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

6. 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.

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Fiona Fair  
Planning Inspector  
15/03/2018