



An
Bord
Pleanála

Inspector's Report ABP-300461-17

Development	The construction of a new dwelling house and associated site works.
Location	The Spires, Laherfineen, Innishannon, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/4495
Applicant(s)	Tadhg O'Mahony
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First party -v- Decision
Appellant(s)	Tadhg O'Mahony
Observer(s)	None
Date of Site Inspection	23 rd March 2018
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located centrally within Inishannon in an elevated backland position to the north of the Main Street (N71) and the west of Cork Road (L2037). This site is surrounded by predominantly residential uses. Thus, to the east lies a dormer bungalow and the site of a further bungalow, to the north lies a detached part single part two storey dwelling house and, to the north-west lies a short cul-de-sac of two dormer bungalows and another bungalow further to the west. To the south, lie street-fronted two multi-storey buildings with extensions and outbuildings: one is in use as a public house and one is vacant with an indeterminate last use.
- 1.2. The site itself is of regular shape and it extends over an area of 0.015 hectares. This site rises upwards, generally, in a northerly direction. Embankments separate the site from the adjoining yards to the south in the applicant's ownership and from the aforementioned cul-de-sac to the north-west. Within the site, a further embankment lies within the western half of the site and levels off towards the north-western corner. This site is vacant at present and it is bound to the east, north, and west by, variously, a concrete post and timber rail and paling fence, a mound, and a timber post and netting wire fence.

2.0 Proposed Development

- 2.1. The proposal is for the construction of a three-storey dwelling house with a floorspace of 273.76 sqm. This dwelling house would be sited within the north-western quadrant of the site. It would be of contemporary design, strikingly so as originally submitted. This design was revised under further information and reduced in floorspace to 221.6 sqm.
- 2.2. The dwelling house would be accessed from the cul-de-sac to the north-west of the site. A platform would be formed to facilitate the provision of two off-street car parking spaces. A flight of steps and a bridge would connect this platform to the front door of the dwelling house in its top storey (second floor level). At first floor level a terrace would wrap around the southern and western elevations and connect to a further flight of steps on the northern elevation to ground floor/garden levels.

2.3. The dwelling house would be served by a connection from the public water mains in the cul-de-sac and by a connection to the foul water sewer in The Spires housing estate to the north. Surface water run-off would be dealt with on-site.

3.0 Planning Authority Decision

3.1. Decision

Refused for the following reasons:

- The proposed dwelling house would be overly dominant and obtrusive with respect to dwelling houses to the east and it would overlook the same resulting in serious injury to residential amenity.
- Inadequate information available with respect to engineering works required to facilitate the proposed development.
- The applicant has not demonstrated that he has sufficient legal interest in all of the land required for the proposed development, i.e. the land shown as being developed to provide two car parking spaces.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See decision.

3.2.2. Other Technical Reports:

- Area Engineer: Following receipt of further information, clarification of aspects of this information requested.
- Irish Water: No objection. Standard notes.

4.0 Planning History

Site: None.

Nearby site to the east: 15/6279: Dwelling house: Permitted.

5.0 Policy Context

5.1. Development Plan

Under the Cork County Development Plan 2014 – 2020 (CDP) and the Bandon Kinsale Municipal District Local Area Plan 2017 (LAP), the site is shown as lying within Innishannon, a key village in the settlement hierarchy.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

In relation to the first reason for refusal, the following points are made:

- The hilly topography of Innishannon is such that, if it is to grow, then infill sites, like the current site, with a degree of overlooking will need to be developed. Precedent for allowing comparable development to that envisaged is evident on adjoining sites, i.e. dwelling houses with a variety of site levels and ridge heights. A further site to the east has an extant permission for similar development. If this development were to proceed in conjunction with that now proposed, then screening between the two resulting dwelling houses would be afforded by an existing tree on the common boundary.
- Existing landscaping along the eastern boundary of the site is depicted in the photograph denoted as AP1.4. This landscaping would be augmented, thereby mitigating any overlooking or visibility concerns. Views from Cork Road would be further mitigated by existing street-side landscaping.
- The proposal would not be overly dominant or obtrusive, as it would capitalise on the gradient of the site to achieve a split-level design with “upside down” accommodation. The scale and mass of its three storey form would be eased by the specification of a flat roof and storeys of different size and shape and the resulting visual impact would be further mitigated by the specification of

natural stone as the finishing material to the ground floor and the fact that the full dwelling house would only be visible from within the site boundaries.

In relation to the second reason for refusal, the following points are made:

- Attention is drawn to the Area Engineer's advice that clarification of further information be sought. No such opportunity was forthcoming and so the applicant's engineer has addressed this matter now.

Earthworks

- The proposal would entail a cut and fill methodology and so no exporting of material from the site would be necessary and very little importing of material.
- All structural aspects of the proposal would be designed and constructed to all relevant standards and undertaken/supervised by an experienced indemnified structural engineer.
- Materials used in the haul route would be checked as to their suitability for such use. Initial tests from trial holes indicates that materials would be suitable.
- The soakaway would be accompanied by a silt trap and so the need to flush it out is not anticipated. However, should such flushing be needed, it could be undertaken by means of hose pipes connected to the proposed car parking spaces.

Construction Plan (CP)

- Items comprised in a CP to mitigate impacts on the local community during any construction phase are delineated.
- Items pertaining to access and storage arrangements are delineated.

In relation to the third reason for refusal, the following points are made:

- The applicant has received confirmation that the cul-de-sac to the north-west of the site has been "taken in charge" and so it is a public road. The proposed access would be off this road.
- Under Document AP 2.2, two alternative layouts of the two car parking spaces is shown, which could be progressed if the County Council so requires.

- With respect to the “needed” turning head, attention is drawn to the existing hammerhead to the cul-de-sac and the limited traffic movements that occur on this cul-de-sac. Furthermore, reversing movements onto public roads is a commonplace, e.g. in the new housing estate further to the north of the site.
- Under Document AP 3.3, sightlines, which accompany the proposed car parking spaces, are shown with dimensions of 5m x 50m, i.e. in excess of those that would normally be required.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the CDP and the LAP, relevant planning history, the submission of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Land use,
- (iii) Visual and residential amenity,
- (iv) Traffic, access, and parking,
- (v) Construction phase,
- (vi) Water, and
- (vii) AA.

(i) Legalities

- 7.2. The third reason for the Planning Authority's draft refusal is that the applicant has not demonstrated that he has either sufficient legal interest in the whole of the site of the proposed car parking spaces or the consent of the person who has such legal interest to develop this site in its entirety.
- 7.3. By way of response, the applicant has submitted Document AP 3.1, which in conjunction with a letter dated 16th August 2017 from the County Council indicates that the portion of the aforementioned site outside the red edged site in the applicant's ownership has been "taken in charge" by the Roads Authority. The application site thus abuts at this point highways land.
- 7.4. During my site visit, I observed that the kerb/barrier alignment "on the ground" of the hammerhead to the cul-de-sac to the north-west of the site and the blue edge of the lands "taken in charge" do not wholly coincide. Some of the embankment to this hammerhead would thus appear to be comprised in these lands, too.
- 7.5. The applicant anticipates that as with normal conventions access from the public road to the north-west would be made available to him during the construction and operational phases of his development. He, also, anticipates that consent would be forthcoming to facilitate the development of the said parking spaces. If this is not the case, then under Document AP 2.2 he has shown an alternative site within lands wholly under his control where these spaces could be developed, thus leaving their access alone to be across highways land.
- 7.6. I conclude that the applicant has clarified the status of the cul-de-sac and illustrated how, if consent to partially lay out the needed car parking spaces on highways land is not forthcoming, then alternative provision for such spaces could be made within his site. In these circumstances, I consider that there is no legal impediment to the Board proceeding to assess and determine the current proposal in the normal way.

(ii) Land use

- 7.7. The site is shown in the LAP as lying both within the development boundary around Inishannon and in an un-zoned existing built up area. Objective DB-01 encourages the development of up to 150 additional dwelling units during the plan period.

- 7.8. The site is unused and vacant and it is surrounded by predominantly residential uses of land. Thus, the development of this site to secure its residential use would, in principle, be appropriate.
- 7.9. The applicant contends that, given Inishannon's hilly topography, the development of challenging infill sites such as the subject one is necessary if this key village is to grow. In the light of the aforementioned Objective DB-01, I concur with this contention.
- 7.10. I conclude that the proposal would, in principle, be appropriate in land use terms.

(iii) Visual and residential amenity

- 7.11. The eastern boundary and north-eastern corner of the site adjoin residential properties, i.e. an existing dormer bungalow, the site of a proposed bungalow (permitted under 15/6279), and an existing part single/part two storey dwelling house. These properties are on Cork Road and they have rising finished ground floor levels in line with the gradient of this Road, i.e. 10.510m, 11.500m, and 14.322m. The proposed dwelling house would have a finished floor level of 17m and it be sited to the west of the bungalows and to the south west of the dwelling house, at minimum distances of 18.5m 17.5m, and 21.5m. This dwelling house would be positioned to correspond with the gap between the existing and proposed bungalows. It would have a maximum height of 26m, which would exceed the level of the adjacent cul-de-sac to the north west, which is 24.547m. By contrast, the ridge heights of the aforementioned bungalows and dwelling houses would be 16.601m, 19m, and 21.246m.
- 7.12. During my site visit, I observed that the rear gardens to the existing dormer bungalow and that envisaged for the proposed bungalow would be shallow in depth and they do/would terminate with a significant change in levels, e.g. drawing no. PL03A shows a 3m rise abutting the eastern boundary to the subject site. Adjacent to this boundary within the site is an existing fence which the applicant proposes to partially retain and partially replace with a 2m high wall. Within the vicinity of this fence there are substantial shrubs and the occasional tree, which the applicant proposes to retain, too. Thus, the said rear gardens are sunken and enclosed to a considerable degree. Nevertheless, the size and height of the proposed dwelling

house would ensure that it is visible from vantage points within these gardens/side gardens and from habitable room openings in the rear elevations of the bungalows.

- 7.13. The Planning Authority's first reason for refusal refers to the dominance and obtrusiveness of the proposed dwelling house and to overlooking and a consequence loss of privacy. I share these concerns with respect to the residential properties to the east of the site. However, I consider that both the issues of visibility and overlooking would be capable of being ameliorated. In the former case, I consider that, if the top storey were to be recessed by 3m from the proposed line of its eastern elevation, then the perceived height of the dwelling house from the said properties would ease significantly. Likewise, if the first-floor windows in the eastern elevation were to be reduced in size, then the opportunity for overlooking/perception of being overlooked would ease significantly, too. In this respect, I consider that the proposed kitchen and dining room windows should be re-specified as having the same dimensions as the proposed utility room window on this elevation.
- 7.14. I recognise that the aforementioned recess would have the effect of reducing the internal dimension of the proposed sitting room appreciably. In these circumstances, the applicant may wish to avail of the opportunity to redesign the layout of this storey. I recognise, too, that this recess would change the overall size and shape of the dwelling house. However, I do not consider that its overall design would be unduly upset and so the resulting visual impact upon the wider townscape views of the revised dwelling house would continue to be acceptable.
- 7.15. I conclude that, subject to revisions to the extent of the top storey and the fenestration at first floor level in the eastern elevation, the proposed dwelling house would be compatible with the visual and residential amenities of the area.

(iv) Traffic, access, and parking

- 7.16. The proposal is for a single dwelling house and so the traffic that would be generated by it would be correspondingly modest. The proposed access would be off a cul-de-sac to the north-west of the site, which presently serves three dwelling houses. This cul-de-sac in turn is accessed off "The Spires", a housing estate road which connects with Cork Road (L2037) a short distance to the east. This road network would be capable of accommodating the said additional traffic.

- 7.17. The proposed access itself would be sited off the south-eastern corner of the hammerhead to the cul-de-sac. This access would serve a platform on which two off street car parking spaces would be laid out. The site layout plan (drawing no. PL01A) shows that the accompanying sightlines from a 2.4m set back distance would reach almost to the extremities of the cul-de-sac and its hammerhead. While a risk of blind spots would arise, it would be mitigated by low level shrub planting to either side of this platform, as shown on drawing no. PL06.
- 7.18. As discussed under the first heading of my assessment, the applicant has submitted Documents AP 2.2 and AP 3.3, which show alternative parking arrangements for the proposed dwelling house. These arrangements would entail the provision of a more extensive platform and they would be accompanied by sightlines from a 5m set back distance, which would negate the potential blind spot noted above along the cul-de-sac.
- 7.19. (I consider that the aforementioned Documents address satisfactorily the burden of the Planning Authority's second reason for refusal).
- 7.20. Under either scenario, the use of the proposed parking spaces would entail reversing manoeuvres. Provided the aforementioned sightlines are available, I do not consider that such manoeuvres would introduce an unacceptable hazard and so any insistence on separate turning facilities for these spaces would be misplaced.
- 7.21. I conclude that the proposal would generate a modest amount of traffic, which would be capable of being accommodated on the local road network. Two off-street spaces would be provided and these would be capable of being used in a safe manner within the context of the existing cul-de-sac.

(v) Construction phase

- 7.22. The access point to the site discussed under the fourth heading of my assessment would be utilised during the construction phase. Given the topography of this site, a temporary haul road would be formed between the said access point and the main body of the site. At the appeal stage, Document 2.2 has been submitted to illustrate, amongst other things, the route and levels of this road. This Document and a further Document 2.1 illustrate the cut and fill methodology envisaged for the site. An accompanying commentary states that it is anticipated that no material would be exported from the site and only a little would be imported during the construction

phase. This commentary also states that bore hole samples of materials on the site indicate that they would be suitable for the formation of the said haul route.

- 7.23. I note that the aforementioned commentary relates to the originally proposed car park platform. I note, too, that the alternative car park platform would be more extensive and so, if it were to proceed, there would be the need to import more material to the site.
- 7.24. The applicant has outlined matters that could be addressed more fully in a Construction Management Plan (CMP). Thus, the basis for ensuring that any construction phase could be undertaken in a satisfactory manner with appropriate mitigation measures to relieve its impact on the amenities of residential properties in the vicinity of the site is to hand.
- 7.25. I conclude that, subject to the submission of a CMP, any construction phase could be undertaken in a satisfactory manner without unduly impacting upon the amenities of residential properties in the vicinity.

(vi) Water

- 7.26. The proposal would be served by a connection from the public water mains in the cul-de-sac, to the north-west of the site, and by a connection to the foul water sewer in The Spires housing estate further to the north. The latter connection would entail the provision of an on-site pumping station to ensure that the difference in levels between the site and this estate can be negotiated. This station would be fitted with twin pumps which would be alarmed.
- 7.27. Surface water run-off would be dealt with on-site by means of a soakaway. Under further information, a soakaway test was undertaken, in accordance with BRE Digest 365: 1991, and ground infiltration rates were found to be satisfactory. Accordingly, a wet well has been specified, which would be capable of being inspected, as a means of ensuring storm water attenuation.
- 7.28. At the appeal stage, the applicant has sought to allay any concern over the wet well by stating that it would be accompanied by a silt trap and so any need to flush it out would not arise.
- 7.29. The LAP shows, indicatively, that to the south of the site, the Main Street through the village and lands to the south of this Street lie within Flood Zones B and A,

respectively, due to their proximity to the River Bandon. However, due to its elevated position, the subject site lies in neither of these two Zones, and so it is not the subject of any recognised fluvial or any other type of flood risk.

7.30. I conclude that the proposed water supply and foul and surface water drainage arrangements for the site would be satisfactory. No recognised flood risk pertains to the site.

(vii) AA

7.31. The site is neither in or near to any Natura 2000 site and I have not been able to identify any source/pathway/ receptor route between this site and the more distant Natura 2000 sites that occur in the wider County. Accordingly, the proposal would not pose any Appropriate Assessment issues.

7.32. Having regard to the nature and scale of the proposal and the proximity of the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That the proposal be permitted.

9.0 Reasons and Considerations

Having regard to the Cork County Development Plan 2014 – 2020 and the Bandon Kinsale Municipal District Local Area Plan 2017, it is considered that, subject to conditions, the proposal would accord with planning policies and objectives for the site and that, subject to revisions to the size and design of the proposed dwelling house, it would be compatible with the visual and residential amenities of the area. Access and parking arrangements would be satisfactory and water supply and drainage arrangements would, likewise, be satisfactory. No flood risk or Appropriate Assessment issues would arise. The proposal would thus accord 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 24th day of October 2017 and by the further plans and particulars received by An Bord Pleanála on the 14th day of 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 proposed development shall be amended as follows:
 - (a) The top storey (second floor) of the proposed dwelling house shall be set back by 3m along its entire eastern elevation. Any consequential changes to the exterior and interior of this storey shall be made explicit.
 - (b) The dining room and kitchen windows at first floor level in the eastern elevation of the proposed dwelling house shall be re-specified to be the same size as the utility room window in this elevation.
 - (c) Final details, including elucidating cross sections, of the proposed access and car parking spaces shall be made explicit.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

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

Reason: In the interest of visual amenity.

4. 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.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (e) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (f) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
 - (g) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

6. No development shall take place until details of earthworks have been submitted to, and agreed in writing with, the planning authority. These details shall include the following:
- (a) Soil and subsoil cross-sections.
 - (b) Plans and sections showing the proposed grading and mounding of land areas, including the levels and contours to be formed.
 - (c) The relationship of the proposed mounding to the existing vegetation and surrounding landform.

Development, including landscaping required by condition number 7 of this order, shall be carried out in accordance with the approved earthworks plan.

Reason: In the interest of residential and visual amenity.

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of 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) A plan to scale of not less than 1:500 showing –

- (i) Existing trees and shrubs specifying which are proposed for retention as features of the site landscaping.
- (ii) The measures to be put in place for the protection of these landscape features during the construction period.
- (iii) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.
- (iv) Details of screen planting.
- (v) Hard landscaping works, specifying surfacing materials and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation.

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

8. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwelling houses without a prior grant of planning permission.

Reason: In the interest of residential amenity.

9. 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.

Hugh D. Morrison
Planning Inspector

17th April 2018