



An
Bord
Pleanála

Inspector's Report ABP-301035-18

Development	Construction of a new dwelling house, domestic garage, water waste treatment system, percolation area, and all associated site development.
Location	Sea Fort, Forthill, Summercove, Kinsale, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/6095
Applicant(s)	Fergus Shanahan
Type of Application	Permission
Planning Authority Decision	Grant, subject to 4 conditions
Type of Appeal	Third parties -v- Decision
Appellant(s)	Cathal & Aileen Fitzgerald Gabriella Lohom & Horst Spielhaupter Caroline Matthews
Observer(s)	None
Date of Site Inspection	29 th June 2018
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located in Forthill, 0.3 km due east of the centre of Summercove and 0.4 km to the north east of Charles Fort. This site lies in an area of elevated land, through which the L-3229 passes. It is accessed from this local road, which rises at a gentle gradient from the south west. The L-3229 serves a sports ground and a small housing estate before reaching the outskirts of Forthill, wherein the site is situated amongst several detached dwelling houses set within their own grounds.
- 1.2. The site itself is of roughly rectangular shape and it extends over an area of 0.21179 hectares. This site is orientated on a north-west/south-east axis and it is subject to gradients that fall gently in a southerly direction across it. (A small mound lies on the south-eastern boundary of the site). The site forms part of the grounds to the applicant's existing detached dwelling house, which lies to the south. It comprises the north-eastern portion of these grounds and it is bound to the north west and the north east by a roadside hedgerow and a field side hedgerow. The south-western boundary follows the sweeping curve of the existing driveway and the south-eastern boundary is undefined "on the ground".

2.0 Proposed Development

- 2.1. The proposal would entail the construction of a detached one and a half storey dwelling house (227.30 sqm) and an attached garage (40 sqm). This dwelling house would be sited in the south-eastern portion of the site on a west north west/east south east axis. It would be of rectangular form under a double pitched roof. The ground floor elevations would be finished in natural stone and the first floor elevations/roof would be clad in a zinc standing seam system.
- 2.2. The proposed dwelling house and garage would be served by a spur from the existing driveway. (As this dwelling house would be occupied by a family member of the applicant's, a shared means of access is proposed). It would also be served by a new well, which would be sited to the south, and an effluent treatment system and a raised sand bed filter, which would be sited to the west.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted subject to four conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was sought on the following issues: sightlines, geographical depiction of existing/proposed dwellings, wells, and WWTPs within 250m of the site and related information, details of redesigned percolation area, and details of design of proposed surface water drainage system.

3.2.2. Other Technical Reports:

- Irish Water: No objection, standard notes.
- Area Engineer: Following receipt of further information, two reservations persist, one of which was made the subject of a condition.

4.0 Planning History

- S/96/1854: Existing dwelling house on the wider house plot: Permitted.

5.0 Policy Context

5.1. Development Plan

Under the Bandon-Kinsale Municipal District Local Area Plan 2017 (LAP), the site is shown as lying within the development boundary and in a zoned existing built-up area of residential uses. Under Objective ZU 3-1 of the Cork County Development Plan 2014 – 2020 (CDP), development that supports the primary land use in this area is normally encouraged.

5.2. Natural Heritage Designations

Sovereign Islands SPA (site code 004124)

Sovereign Islands NHA (site code 000105)

Old Head of Kinsale SPA (site code 004021)

Old Head of Kinsale pNHA (site code 000100)

6.0 The Appeal

6.1. Grounds of Appeal

(a) Cathal & Aileen Fitzgerald of Ard Cuain

- The appellants' dwelling house lies to the north of the site. Views from this dwelling house cross this site feature the outer Kinsale Harbour and the Old Head coastline/landscape. Consequently, the proposal would obstruct these views, i.e. the appellants estimate that the top 3 or 4m would be visible from their ground floor windows.
- The site is located within a landscape, which, under the CDP, is characterised as Indented Estuarine Coast. This landscape has a very high landscape value and sensitivity. Furthermore, the design of the proposal would be out of character with existing dwelling houses in the area.
- While the appellants have no objection in principle to the applicant's quest to provide accommodation for a family member, the elevated position of the siting of the proposed dwelling house and its size would adversely affect the aforementioned views and hence the amenities and value of their dwelling house.

Accordingly, the appellants request that the proposal be redesigned and that any further application be the subject of a more thorough going visual presentation.

(b) Gabriella Iohom & Horst Spielhaupter of The Cairn

- While the lack of sections militates against a full visual assessment of the proposal, the size, height, and mass would adversely affect their visual amenities.
- Any proposed dwelling house on the site should be re-sited and be more modest, e.g. a quasi-gate lodge.
- The design of the proposal would be that of a “modern barn aesthetic” and, as such, it would be out of character with the scale, proportions, and, especially, height of existing dwelling houses.
- The said design would dominate the appellants’ dwelling house and it would spoil their quiet enjoyment of the same.
- Concern is expressed over the proximity of the siting of the proposal to the appellants’ lands to the north east and any impact on their future development potential.

(c) Caroline Matthews of Gull House

Attention is drawn to the following concerns raised by the appellant at the application stage, which she considers remain outstanding:

- The site survey shows a mound on the south-eastern boundary of the site. This mound should be investigated to ascertain if it is of any archaeological interest.
- The site survey shows a fall across the site from north to south and yet the ground floor would be on a single level: hence cut and fill would be required. The implications of this have not been disclosed.
- The proposed WWTP is critiqued on the basis that the raised percolation area would be higher than the Plant itself. Concern is expressed that the water table may be polluted.
- The well would be sited close to the access road and a soakaway. Concern is expressed that the water table may be polluted.
- Due to the aforementioned siting and the height of the proposal, it would be too dominant. Furthermore, the specification of zinc standing seam cladding

would accentuate its dominance and be out of character with existing dwelling houses.

- Sliding doors in the southern elevation of the proposal may lead to the further raising of site levels.
- Inadequate information has been submitted to allow a full assessment of the relationships that would arise between the proposal and adjacent dwelling houses. Adverse impacts are, however, anticipated.
- The site lies within the context of Charles Fort and Kinsale Harbour and yet the visual impact of the proposal upon these features has not been adequately presented.

Additionally, the appellant expresses concern that the siting of the proposed WWTP would sterilise the front of her site.

6.2. Applicant Response

The visual concerns of the appellants are summarised and responded to as follows:

- These concerns were considered by the applicant and the Planning Authority and the latter came to the conclusion that the proposal would not significantly impinge on the enjoyment of third parties' amenities and so it would not be overbearing. Furthermore, this proposal would accord with CDP and LAP policies for the site.
- The said concerns arise from an inaccurate assessment of the proposal and a desire to see the site left undeveloped.
- The impetus for the proposal is the applicant's quest to accommodate a family member with medical needs close to the family home.
- The proposal would not interfere with the character and setting of Charles Fort or harm views from scenic routes.
- The need for AA has been screened out.
- The proposal would not adversely affect the surrounding low density residential area.

- The applicant responded satisfactorily to the Planning Authority's further information request and Irish Water raised no objection to the proposal.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. **Further Responses**

Appellant (c) supports appellant (b)s' grounds of appeal.

7.0 **Assessment**

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

- (i) Land use,
- (ii) Design,
- (iii) Visual amenity,
- (iv) Access,
- (v) Water, and
- (vi) AA.

(i) Land use

7.2. Under the LAP, the site is shown as lying within the development boundary and in an existing built up area. Under the CDP, development that supports the primary use in any existing built up area is normally encouraged.

7.3. The site forms part of the grounds to the applicant's existing dwelling house. Surrounding land uses within the development boundary are also residential. The

proposal is for an additional dwelling house within these grounds and so there is no in principle land use objection to such an addition.

7.4. I conclude that the proposal would be appropriate from a land use perspective.

(ii) Design

7.5. The CDP addresses the design and landscaping of new buildings under Heritage Objective HE 4-6. This Objective refers to both the need to (a) “Encourage new buildings that respect the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape” and the need to (c) “Foster an innovative approach to design that acknowledges the diversity of suitable design solutions in most cases, safeguards the potential for exceptional innovative design in appropriate locations and promotes the added economic, amenity and environmental value of good design.”

7.6. The site is situated in an area of relatively new one-off dwelling houses, which has led to a low-density pattern of development with a mixture of sizes and designs of dwelling house.

7.7. The applicant has described the design concept of the proposed dwelling house as follows: “The dwelling is conceived as a contemporary form of a traditional agricultural building typically found in rural areas. The barn-type structure as proposed will sit comfortably in the landscape and is to be read as a simple, traditional structure with a limited palette of materials.”

7.8. Appellants have critiqued the said design on the basis that it would be out of character with the scale, proportions, and, especially, height of existing dwelling houses. Furthermore, its dominance would be accentuated by the specification of a zinc standing seam roof system.

7.9. During my site visit, I observed that surrounding dwelling houses comprise conventional and contemporary bungalows, dormer bungalows, and other bungalows that utilise their roofspace for habitable purposes. Within this modern milieu, the proposed dwelling house would appear as a distinctive addition, emulating as it would a traditional barn like form.

7.10. Given the aforementioned milieu, I consider that the proposed dwelling house would represent an innovative approach to design that would be appropriate on the site’s

edge of settlement location beside a variety of dwelling houses. Its form would appear as a solid and robust one and its perceived size and mass would be eased by the specification of the said roof system to both the first floor and the roof. While it would be higher than surrounding dwelling houses, its one and a half storey height, rather than two storey height, would limit the resulting difference in heights, e.g. its ridge height would be 58.123m OD and the nearest existing single storey dwelling house to the north east has a ridge height of 59.58m OD.

7.11. In order to ensure that the design integrity of the proposed dwelling house is safeguarded in the future, I consider that the normal exempted development rights for extensions and outbuildings should be restricted by means of a condition, which would allow the Planning Authority to control any such proposals in the future.

7.12. I, therefore, conclude that the design of the proposed dwelling house would comply with the advice set out in Heritage Objective HE 4-6.

(iii) Visual amenity

7.13. Appellants express concern that insufficient information has been submitted to facilitate a full visual assessment of the proposal, e.g. its impact upon views from Charles Fort and Kinsale Harbour. They also express concern that it would be visually obtrusive and that it would obstruct attractive landscape/seascape views from dwelling houses to the north.

7.14. The application drawings include a site survey, which indicates existing and proposed finished levels. As the site slopes gently downwards in a southerly direction and the proposed dwelling house would be orientated on a west north west/east south east axis, to achieve a level surface there would be the need for a cut and fill operation. The resulting finished ground floor level of 50.30m OD would be slightly higher than the existing levels on that part of the site where the proposed dwelling house would be sited.

7.15. While I recognise the lack of a contextual presentation of the proposal, I recognise, too, that surrounding dwelling houses are at some remove from the site and so my site visit was useful in provided the opportunity to gain an impression of the likely visual impact.

7.16. Charles Fort is some 0.4 km to the south west of the site at the foot of that portion of the L-3229 which passes the site. The local topography, roadside embankments,

and existing dwelling houses combine to ensure that views of the site are not visible from this Fort and its vicinity. I anticipate that the roof of the proposed dwelling house would be visible from certain vantage points. However, it would be seen in conjunction with existing surrounding dwelling houses to the north and to the south and so the impact on visual amenity would not be appreciable.

- 7.17. Kinsale Harbour is obviously at sea level and so the headland of Forthill would obstruct any short to medium range views of the developed site. Within long range views, this site would be seen in conjunction with other dwelling houses and Charles Fort itself and so its development would have no appreciable impact upon visual amenity.
- 7.18. Of the surrounding dwelling houses, some of their outlooks would be affected by the introduction of the proposed dwelling house. During my site visit, I observed that the dwelling house that is likely to be most affected in this respect is appellant (a)'s, which lies due north at a distance of c. 100m. The principal elevation of this dormer bungalow is orientated towards the south-eastern half of the site, where the proposed dwelling house would be sited. Views across this site of the coastline beyond would be interrupted. However, these views are not protected under the CDP and under the planning system there is no automatic right to a view. Given the separation distance involved, I do not consider that the proposed dwelling house would be unduly dominant or that it would lead to an excessive sense of enclosure to the outlook concerned. In time, landscaping would ease the presence of this dwelling house, although not the said interruption to views.
- 7.19. I conclude that the proposal would be compatible with the visual amenities of the area.

(iv) Access

- 7.20. The applicant envisages that the proposed dwelling house would be occupied by a family member. Accordingly, no separate access from the public road (L-3229) is proposed. Instead the existing entrance way and driveway from this road to his dwelling house would form the means of access, as far as a new spur from the driveway to the proposed dwelling house and garage. This entrance way lies just inside that portion of the L-3229 which is subject to a 50 kmph speed limit. It is un gated and accompanied by a vehicular refuge.

- 7.21. I note that conditions 2 and 3 of the Planning Authority's draft permission seek to ensure that surface water from the existing driveway does not run-off onto the public road. I note, too, that the proposal would generate an increase in traffic movements to and from this driveway and so I consider that the quest to improve the same, encapsulated by the aforementioned conditions, is a reasonable one.
- 7.22. Under further information, the applicant was requested to address the issue of verge side vegetation along the frontage to his property, which can restrict the sightlines at the entrance way available to exiting drivers. He responded by undertaking to trim this vegetation on an annual basis in the months of February and September. Provided such maintenance occurs, sightlines would be satisfactory as the portion of road concerned is of straight alignment.
- 7.23. I conclude that access arrangements to the site would be satisfactory.

(v) Water

- 7.24. The applicant proposes that the new dwelling house be supplied by water from a well that would be dug towards the southernmost corner of the site. He also proposes that foul water would be handled by means of an effluent treatment tank and raised sand filter, which would be sited in the north-western corner of the site and that surface water would be handled by means of soakaways, which would be sited in the north-eastern and south-eastern corners of the site.
- 7.25. Appellants express concern that the proposed WWTP would potentially pollute the water table upon which neighbouring wells depend. They also express concern that the siting of this WWTP would sterilise adjoining land and thereby restricting its development potential.
- 7.26. Under further information, the applicant submitted a revised site suitability assessment, detailed drawings of the proposed WWTP, and a BRE 365 report on site soakage. Due to the presence of bedrock at a high level, the said assessment concludes that a raised sand filter would be necessary. This filter would be sited in accordance within all the relevant parameters cited by the EPA's relevant Code of Practice. One of the submitted drawings shows all of the wells and WWTPs within a radius of 250m of the siting of the proposed sand filter. As these are to the north and east and the direction of ground water flow is to the south east, the risk to existing wells other than the applicant's existing and proposed wells would not be an issue. In

the case of the other wells they would be c. 78 and c. 68m away and so compliant with the recommended minimum separation distances cited in Table B.3 of the said Code.

7.27. I conclude that the proposed water supply and drainage arrangements for the site would be satisfactory.

(vi) AA

7.28. The site is not in a Natura 2000 site and the nearest such sites are at some considerable remove, i.e. Sovereign Islands SPA (site code 004124) and Old Head of Kinsale SPA (site code 004021). Under the former designation, the bird species of interest is the cormorant, and, under the latter designation the bird species of interest are the kittiwake and the guillemot.

7.29. The site presently forms part of the applicant's extensive garden. It thus does not represent a habitat that would be frequented by the aforementioned seabird species. Accordingly, its development, as proposed, would be unlikely to have any significant effect upon the conservation objectives for the said seabirds.

7.30. Having regard to the nature and scale of the proposal and the nature of the receiving environment, 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

8.1. 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 be appropriate in land use terms and its design would comply with Heritage Objective HE 4-6 of the County Development Plan. The proposal would be compatible with the visual amenities of the area. It would be capable of being satisfactorily accessed and water supply and drainage arrangements would, likewise, be satisfactory. No 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 5th day of January 2018, 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. 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.

3. (a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and arrangements in relation to the ongoing maintenance of the system, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Treated effluent shall be discharged to a raised percolation area which shall be provided in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

4. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

5. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

6. The landscaping scheme shown on drg no. 1143.007, as submitted to the planning authority on the 11th day of August, 2017, shall be carried out within the first planting season following substantial completion of external construction works.

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, 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.

7. 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.

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 the proposed dwelling house without a prior grant of planning permission.

Reason: In order to afford the planning authority control over any future extensions or outbuildings, in the interest of visual 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

13th July 2018