



An
Bord
Pleanála

Inspector's Report ABP 301085-18

Development	Dwelling, realignment of existing entrance to provide shared entrance and all associated site works.
Location	Chapel lane, Townlands, Rosscarbery, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/432
Applicants	Shane & Deirdre Murphy
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	John & Ann Cadogan
Observer(s)	None
Date of Site Inspection	28/06/18
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site, which has a stated area of 0.0957 hectares, constitutes the side garden of a detached 1 and 2 storey dwelling that fronts onto Chapel Lane to the north-east of Rosscarbery village centre. The site is roughly rectangular in shape, slopes up from the road and is higher than the finished floor level of the dwelling it serves. It is laid out as a lawn with a wall delineating the front boundary. The lands to the rear rise steeply in a north-westerly direction.

The site is bounded by a two storey dwelling which fronts directly onto the road. A low stone wall and outbuilding delineate the front section of the shared boundary after which there is a mature coniferous hedge. The dwelling is served by a long rear garden area. It has windows facing onto the appeal site at both ground and 1st floor level. An enclave of two storey dwellings is to the north-west of same with two storey terraced dwellings along Chapel Lane further west. There is a line of two storey, semi-detached dwellings to the north-east with a small scheme of two storey dwellings noted on the opposite side of the road.

2.0 Proposed Development

The application was lodged with the planning authority on the 05/07/17 with unsolicited further information (FI) received 11/08/17 and 09/10/17 with FI received 04/12/17 following a request dated 22/08/17 and clarification of FI received 11/01/18 following a request dated 21/12/17.

As amended, the proposal entails the construction of a L-shaped, two storey dwelling with a floor area of 207.4 sq.m and ridge height of 6.968 metres. The building line is to approx. 2 metres forward of the dwelling immediately to the north-east resulting in a setback of c.20 metres from the roadside boundary. The external finishes are to be a mix of render with zinc cladding to the dormer windows and blue/black slate to the roof.

The existing access serving the overall site is to be reconfigured to provide for a shared access arrangement.

Connection to public water and sewerage is proposed. Storm water is to be disposed via an on-site soakaway.

The applicant is accompanied by a Planning Statement Report.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 14 conditions including:

Condition 2: Following design revisions to be made:

- Dormers to be spaced evenly within the roof space on the south elevation.
- More proportionate fenestration pattern to the south elevation to be applied.

Conditions 3 & 4: External finish requirements

Condition 5: Notwithstanding exempted development provisions no additional structures to be erected within the curtilage without planning permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report dated 22/08/17 considers the principle of the development to be acceptable. The design is considered unacceptable. It is at odds with the form of development, whilst the scale of the dwelling is too large for the site. A request for further information is recommended requiring redesign of the proposed dwelling.

The 2nd report dated 21/12/17 following FI notes the Conservation Officer's comments. Clarification of further information recommended on treatment of the south elevation and fenestration pattern to the remainder of the elevations. The 3rd report dated 02/02/18 following clarification of FI notes the Conservation Officer's report. A grant of permission subject to 14 conditions is recommended.

3.2.2. Other Technical Reports

The Area Engineer's report dated 26/07/17 has no objection subject to conditions.

The 1st Conservation Officer's report dated 17/08/17 notes that the site is within an ACA. She has no objection in principle. There are concerns about the size of the structure in relation to the size of the site and elements of the design approach. Further information is recommended. The 2nd report dated 2012/17 following FI considers there are concerns about the fenestration pattern and window sizes. A deferral is recommended to seek revisions with conditions detailed should permission be granted. The 3rd report dated 30/01/18 following clarification of FI has no objection to the revised proposal subject to conditions.

3.3. Prescribed Bodies

Irish Water has no objection.

3.4. Third Party Observations

An objection to the proposal received by the planning authority raised issues comparable to those set out in the 3rd party appeal summarised in section 6 below.

4.0 Planning History

I am not aware of any previous applications on the site.

5.0 Policy Context

5.1. Development Plan

5.1.1. Cork County Development Plan

Objective HE 4-5 Architectural Conservation Areas

Conserve and enhance the special character of the ACAs. The special character of an area includes its traditional building stock, material finishes, spaces, streetscape, shopfronts, landscape and setting. This will be achieved by:

- Protecting all buildings, structures, group of structures, sites, landscapes and all other features considered to be intrinsic elements to the special character of the ACA, from demolition and non-sympathetic alterations.

- Promoting appropriate and sensitive reuse and rehabilitation of buildings and sites within the ACA and securing appropriate infill development.
- Ensure new development within or adjacent to an ACA respects the established character of the area and contributes positively in terms of design, scale, setting and material finishes to the ACA.
- Promoting high quality architectural design within ACAs.
- Protect structures from demolition, non sympathetic alterations and the securing of appropriate infill developments.

The local road is part of Scenic Route S78.

5.1.2. West Cork Municipal District Plan 2017

Rosscarbery is designated as a key village

Section 4.9.1 – the strategic aims for Rosscarbery are to preserve the unique architectural character and landscape setting of the settlement and to promote sympathetic development in tandem with the provision of services.

Section 4.9.7 - there is scope for development within Rosscarbery, however, it is important that the village's character, architectural heritage and its other heritage and natural and coastal amenities are maintained, enhanced and not compromised.

Objective DB-02 – protect and enhance the attractive coastal setting and landscape character of the village.

5.2. **Natural Heritage Designations**

None in the vicinity.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The submission by Coakley O'Neill on behalf of the 3rd Party appellants who own the property to the south/south-west can be summarised as follows:

- The proposal would have a negative effect on the character of existing dwellings including the appellants' property which is a structure designated as

being of regional importance in the NIAH. It would also have a negative effect on the local area which is a designated ACA and on a scenic route.

- The scale is significantly greater than that of housing in the immediate vicinity and its design is not in keeping with the established pattern of development adjacent. It will, therefore, be out of proportion, excessively large, visually dominant and overbearing.
- It would set an undesirable precedent for similar development in established residential areas of distinctive character.
- The site is at a higher level than the appellants' property. The finished floor level will remain between 0.5 and 1.5 metres above their property
- It would give rise to overlooking and loss of privacy.
- The dwelling was brought forward by way of the further information response dated 04/12/17. Some of the plans are incorrect.
- The proposal is inconsistent with the policies and objectives relating to infill development in residential areas with a conservation designation.
- The planning authority's condition requiring the setting back of the entrance presents issues with the location of the access and onsite parking. It is unclear whether the 50 metre sightlines can be achieved. The splaying of the entrance at 45 degrees will have a significant impact in terms of visual amenity and the organisation of access and parking arrangements in the front garden. There is no drawing or plan indicating the impact of the new driveway, gates, parking and drainage systems.
- The dwelling would be very close to their rear garden with windows in the elevation onto same resulting in significant overlooking. This will mirror and exacerbate the overlooking already permitted on the opposite side of their property. There is no functional need for many of the proposed windows.
- The proposal will necessitate the removal of the leylandii hedge and may impact on the natural stone wall along the boundary. The dwelling should be relocated away from the boundary.

- Modification rather than refusal is sought including the lowering of the ridge height, the removal of windows on the upper floor and the repositioning of the dwelling by a minimum of 2 metres. The 2 metre setback would align with the adjoining dwelling so as to minimise impact on their property, the streetscape, the scenic route and would create a better line to an earlier development located upslope and close to Ceim Hill.

6.2. Applicant Response

The response by HW Planning on behalf of the applicants can be summarised as follows:

- The site is over 100 metres from the nearest protected structure to the south (Rosscarbery Church) with no significant visual interrelationship.
- The appellants' house is not a protected structure. It is a NIAH listed building.
- The immediate environment is characterised by redeveloped and infill residential properties to the west and north. The wider setting is characterised by a mix of new and old development types. The proposal is considered to be in keeping with same.
- The design is clean and contemporary.
- The issue of scale, design and compatibility with the ACA designation has been dealt with via the production of a heritage report. The Council's Conservation Officer has satisfied herself that the proposal will not give rise to any adverse impacts on architectural heritage or character in the local area.
- The dwelling would be c.70 metres from the nearest point of the S78 scenic route. The basis for the designation arises principally from views of the bay and coastal landscape rather than a direct focus on Chapel lane or the village. The dwelling will not be materially visible from the nearest point of the scenic route and will not result in any negative impacts on views relative to the qualified basis for its designation.
- The site will be lowered to correspond with that of the existing tarmac area thereby significantly reducing perceived prominence. The ridge height of 7

metres, which is notably less than other dwellings in the area, will ensure no potential for undue dominance.

- While the dwelling will be located marginally in front of the existing bungalow it will align directly with the long established row of houses east of this.
- The dwelling will be located behind the appellants' existing shed which functions as a buffer between the dwellings.
- The request to relocate the dwelling 2 metres back appears to be an arbitrary figure with no justification put forward for same or how it would provide for an improved relationship with their property.
- The permitted layout includes 3 no. rooflights on the pitch roof of the western elevation which afford skyward views only. The two smaller box windows serve an ensuite and walk in wardrobe. The applicant is willing to fit these windows with opaque glazing if required by the Board.
- The ground floor windows will not afford views of their garden due to differing site levels, the shed and the existing hedgerow.
- The front of the house (south) is c.17 metres from the appellants' property. The proposed windows are oblique to the side of the property and no direct overlooking will be possible.
- It is proposed to retain the tree planting where possible along the shared boundary.
- Subject to trimming back of the hedge sightlines can be achieved.
- The design has been informed by the special needs of a future occupant. Any reduction in floor space will mean that the dwelling will become unviable.

6.3. Planning Authority Response

No further comment.

6.4. **Section 131 Notices**

Due to the location of the site within an ACA the appeal was circulated to certain prescribed bodies for comment/observations. No responses received.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Principle of Development
- Suitability of Design and Impact on Character of the Area
- Impact on Amenities of Adjoining Property
- Access
- Appropriate Assessment

7.1. **Principle of Development**

The site constitutes the side garden of a 1 and 2 storey detached dwelling within the settlement boundary of Rosscarbery. There are no specific zoning objectives delineated for the site in the West Cork Municipal District LAP. On this basis I submit that the principle of the development of the site is acceptable, however there is an obligation to reconcile the need to meet the requirements of the applicant for a dwelling on the site with the requirement that such works should not compromise the residential amenities of adjoining properties and the visual amenities and character of the area.

7.2. **Suitability of Design and Impact on Character of the Area**

The entire village of Rosscarbery is designated as an Architectural Conservation Area. It is an objective of the County Development Plan to conserve and enhance the special character of such areas by ensuring that new development respects the established character and contributes positively in terms of design, scale, setting and material finishes. This is effectively repeated in objective DB-02 in the plan for

Rosscarbery set out in the West Cork Municipal District LAP 2017. These objectives are considered reasonable.

The context of the site is somewhat varied and does not exhibit any overriding architectural style or design. As noted above the site comprises the side garden of a dwelling that presents as single storey to the road. The building line of this dwelling is setback somewhat from the line of semi-detached two storey dwellings to the north-east of same, some of which have been extended. The appellants' property which fronts directly onto the road is a detached, three bay two storey dwelling served by a long narrow rear garden and, whilst included in the National Inventory of Architectural Heritage (reg. no. 20855027), is not included in the list of protected structures for County Cork set out in Volume 2 of the County Development Plan. I note that the NIAH considers that the house makes an excellent addition to the streetscape and is accorded a regional rating. It is separated from the two storey terraced streetscape to the west (synonymous with the village centre) by an entrance to a small enclave of two storey dwellings setback from the road. I also note that a small scheme of two storey residential units has been developed on the opposite side of the road.

I submit that the context of the site which is surrounded by a mix of architectural style and layouts, allows for greater latitude in terms of design relative to a site where the streetscape is more rigidly defined. I also note that by reason of the alignment of the road and the pattern of development views of the site are restricted when travelling in both directions along Chapel Lane. Whilst part of the designated scenic route (S78) I would concur with the agent for the applicants' view that the important views would be southwards/eastwards towards the coastal landscape.

As noted from the plans accompanying the application (site layout plan no. 16148-SL-004 dated 02/11/17) and to allow for the shared access arrangements the site levels are to be reduced to be comparable with that of the 1/2 storey dwelling to the north-east (99.882mOD) and is to have a finished floor level of 100mOD. The finished floor level of the appellants' property is stated as being 99.825mOD. The dwelling design, as modified, entails a roughly L-shaped two storey dwelling with a ridge height of 6.968 metres and would be lower than that of the appellants' house. On this basis I see no reason to seek a further reduction in the height of the dwelling as recommended by the agent for the appellants.

The building line as proposed is set 2 metres forward of that established by the dwelling to the north-east and, whilst it may mirror that of the semi-detached dwellings further to the north-east, I consider that there is merit in the appellants' recommendation to seek this setback so as to limit the changes in the building line at this location and to allow for a more ordered layout.

The house is designed so as to allow for the entrance to be from the east elevation onto the shared access.

The issue of the fenestration was raised throughout the planning authority's consideration of the application and I submit that the amended proposals received 11/01/18 remain somewhat problematic in this regard especially in the south (roadside) and east elevations. The placing of the dormer windows in the south elevation is uneven with no reasoning for same evident from the floor plans, whilst the window opening in the south-eastern corner at ground floor level detracts from the proportion to be established by the other openings in the south elevation. I would also submit that the window treatment to the south-eastern corner at both ground and first floor levels on the east elevation are at variance with the vertical emphasis applied elsewhere. I recommend modifications to the fenestration to address the above concerns. Finishes will also be of importance.

On balance, I consider that in view of the positioning of the dwelling on the site, the proposed finished floor level comparable to that of the properties to either side, a ridge height of less than 7 metres and subject to the recommended amendments above, that the dwelling would be of an acceptable design, would not have an overbearing or dominant impact on the streetscape and would not detract from the character of the ACA at this location.

7.3. Impact on Amenities of Adjoining Property

The existing boundary to the appellants' property is delineated by a stone wall along the front section with a high leylandii hedge towards the rear. As noted on day of inspection the north-eastern elevation of the appellants' property, which has windows overlooking the appeal site at ground and 1st floor level, is visible from the road. With the amendment to the building line as recommended above the proposed dwelling would have a setback of approx. 22 metres from the roadside boundary.

With the stone outbuilding to the rear of the appellants' dwelling along the shared boundary providing a screen, overlooking would be largely precluded. Rooflights are proposed at 1st floor level in the western elevation with the other two openings serving an ensuite and wardrobe area only. Opaque glazing and restriction to high level openings would be required in terms of the latter. The existing mature hedge would preclude overlooking from the proposed ground floor windows.

I therefore consider that the positioning of the dwelling on the site, coupled with the proposed finished floor level comparable to that of the properties to either side and a ridge height of less than 7 metres, that the dwelling would not overwhelm or dominate the appellants' property and strikes a reasonable balance between the protection of the amenities and privacy of the dwelling whilst providing for the residential requirements of the applicant.

7.4. Access

A shared access arrangement is proposed with the dwelling to the north-east which will require the realignment and widening of the existing entrance. In the context of the existing and proposed development the proposed splaying of the entrance would not have an adverse impact on the visual amenities of the area. Adequate off street parking for the two houses can be provided.

I would also submit that in view of the site location with the village of Rosscarbery where the 50kph speed limit applies and the sightlines that would be available, the additional vehicular movements would not give rise to concerns regarding traffic hazard. I note that the Area Engineer has no objection to the proposed arrangement.

7.5. Appropriate Assessment

Having regard to the location of the fully serviced site within the settlement boundary of Rosscarbery no Appropriate Assessment issues arise and it is not considered that the proposed 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. I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the location of the site within the settlement boundary of Rosscarbery, to the pattern of development and character of the general area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of property in the vicinity and would respect the existing character of the Architectural Conservation Area. 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 11th day of August, 2017, 9th day of October 2017, 4th day of December 2017 and 11th 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. The front building line of the dwelling shall be set back 2 metres from that as delineated on the site layout plan submitted to the planning authority on the 4th day of December 2017 and shall align with the front building line of

the dwelling to the north-east. A revised site layout plan with the alterations delineated thereon shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interests of orderly development and the visual amenities of the area.

3. The dwelling shall be constructed in accordance with the floor plans and elevation drawings received by the planning authority on the 11th day of January 2018. Prior to the commencement of development revised drawings with the following amendments delineated thereon shall be submitted to the planning authority for written agreement.
 - (a) The dormer windows to be repositioned in the south elevation so as to be evenly spaced in the roof.
 - (b) The reduction in the window opening in the north-eastern corner of the south elevation to match the other 4 no. window openings proposed on this elevation.
 - (c) The omission of the 1st floor window serving the master bedroom and the ground floor window serving the sitting room in the east elevation and their replacement with alternative openings with a vertical emphasis that match the other openings proposed in the east elevation.
 - (d) The windows serving the first floor wardrobe and ensuite rooms on the south elevation shall be permanently fitted with opaque glazing. Openings sections, if required, shall be restricted to top hung pivot

Reason: In the interest of the visual amenities of the area.

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

Reason: In the interest of protecting the residential amenity of surrounding

properties.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the proposed house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

6. Site development and building works shall be carried only out between 08.00 hours and 18.00 hours Mondays to Fridays excluding bank holidays and between 08.00 hours and 13.00 hours on Saturdays. 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 interest of protecting the residential amenity of adjoining properties.

7. 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 noise management measures, measures to prevent pollution to local watercourses, and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

8. All service cables associated with the proposed development (such as electrical, telecommunications and television) shall be located underground.

Reason: In the interests of visual and residential amenity.

9. Drainage arrangements, including the attenuation and disposal of rain water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10. The leylandii hedge along the south-western boundary of the site shall be retained and maintained and shall be protected from damage during construction works. Within a period of 6 months following the occupation of the proposed development, any planting which is damaged or dies shall be replaced with other of similar size and species.

Reason: In the interest of visual amenity and protection of amenities of adjoining property.

11. 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.

Pauline Fitzpatrick

Senior Planning Inspector

July, 2018