



An
Bord
Pleanála

Inspector's Report ABP-301546-18

Development	Retention and completion of two storey dwelling house (change of layout and design from that permitted under planning Reg. No. 16/5812.
Location	Laght, Glanworth, Co Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	18/4376
Applicant(s)	Michael Sheehan & Paula O'Regan
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Alex and Kay Sheehan
Observer(s)	None.
Date of Site Inspection	6 th September 2017
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1.1. The appeal site, with a stated area of 0.6456ha, is located on the western side of the Kildorrey to Fermoy Road, just outside the village boundary of Glanworth approx. 8 Km north west of Fermoy, in County Cork.
- 1.1.2. The site currently hosts a partially complete two storey dwelling house permitted under Reg. Ref. 16/5812. During my site visit it was evident that all works on the site have ceased and while block work is complete to ridge level there is no roof on the structure.
- 1.1.3. The partially complete dwelling is set back some 75m from the public road to the east. There is an adjoining dormer dwelling (the appellants dwelling) located to the north east, set back approx. 10m from the public road and approx. 47m from the closest point of the dwelling the subject of the appeal application.
- 1.1.4. The site boundary along the northern boundary comprises a mix of stone wall, ditch, timber fence, hedging and mature trees. The roadside boundary comprises a ditch with mature planting and trees, the southern and western boundaries are undefined.

2.0 Proposed Development

- 2.1. The proposal comprises permission for:
 - Retention and completion of two storey dwelling house (change of layout and design from that permitted under planning Reg. No. 16/5812
 - The GFA of the dwelling is stated as 294 sq. m, it has a height of some 9.498m, a full gable roof design and is to be finished in the main with smooth plaster, with the exception of a mortarless grey Liscannor stone to the front gable projection.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted subject to 14 number conditions. Conditions of note include:

C. 2 The proposed development shall comply with the terms and conditions of planning Permission Reg. No. 16/5812 which governs the overall development of the lands of which the site forms part, save where amended by the terms and conditions herein.

C.3 Entrance shall be recessed a minimum of 4.5m from front boundary fence and side walls shall be splayed at an angle of 45 degrees and walls and piers shall not exceed a height of 1m over the level of the adjoining public road.

C. 5 Side walls and piers of entrance and any new boundary wall shall be of (a) local natural stone (b) sod and stone or (c) earth berm with hedge of indigenous species planted on top at 60cm intervals.

C. 8 Sight distance of 120 m to the north and 120m to the south shall be provided from centre point of entrance 2.4m back from public road edge. No vegetation or structure shall exceed 1m in height within the sight distance triangle.

C. 12 The proposed septic tank and percolation area shall be designed, constructed, laid out and maintained to conform with the provisions of the Code of Practice, Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. = 10) EPA 2009.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planners Report sets out that the proposed development would not seriously injure the amenities of the area and would not be prejudicial to public health.

Area Engineer: No objection subject to condition.

3.2.2. External Reports

Irish Water (IW): No objection

3.3. Third Party Observations

One objection was submitted to the planning authority. Concerns raised are similar to those raised in the third-party appeal summarised in detail below.

4.0 Planning History

Reg. Ref. 16/5812 Permission granted to the current applicants to erect a two-story dwelling with septic tank and percolation area, site entrance and all associated site works.

5.0 Policy Context

5.1.1. Development Plan

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

The site is located within an area defined as 'Town Greenbelt GB1 - 1. The policy for the area is outlined under Chapter 4: Rural, Coastal and Islands.

5.2. Natural Heritage Designations

The appeal site is located approx. 6.5 Km to the east of the River Blackwater Special Area of Conservation (SAC Site code 002170).

6.0 The Appeal

6.1. Grounds of Appeal

The issues raised within the third party appeal by Alex and Kay Sheehan are summarised as follows:

- The description of the proposed development is quite loose and does not accurately describe the proposal.
- The dwelling house has been relocated on site and there is no mention of this in the public notices.
- Relocation of the dwelling has brought the house closer to the appellants dwelling house

- Negative impact upon appellants privacy and residential amenity and use and enjoyment of their home.
- The relocation of the dwelling on site results in backland development and does not maintain the building line.
- No mitigation measures have been provided for the protection of privacy of adjoining dwelling.
- The site layout plan is difficult to read and exact absolute distances from boundaries and exact location of the property is difficult to determine.
- No distance shown for distance of the dwelling from the front boundary.
- The dwelling height at 9.498m high towers above the appellants property
- Negative impact upon daylight particularly in the evening time and particularly in wintertime when day light is limited.
- Visually intrusive
- Reduce the value of the appellants property
- Overlooking of private open space to the rear of the appellants property.

6.2. Applicant Response

6.2.1. A response was submitted by Michael Sheehan it is summarised as follows:

- Sets out background to the history application Reg. Ref. 16/5812
- Consider the wording of the application description to be adequate.
- The dwelling where it is located is closer to the road and it is marginally further away from the boundary ditch.
- The location of the dwelling will not affect the privacy of the appellants.
- No first floor windows proposed on the norther gable elevation.
- The house location 16/5182 and 18/4446 are both within the general area agreed with the appellants when the first party agreed to relocate the intended house location.

- Drawing no. 3 dated 12/02/18 indicates the distance of the part constructed dwelling and the 16/5182 location from the appellants property – 47.77m and 52.17m respectively. A difference of some 4.4m
- Photographs included showing views of the appeal site and the appellants property.
- The dwelling cannot be described as backland and breaking the building line as it is located as per the location requested by the appellants.
- The northern party boundary comprises a mature hedge, large mature trees and a wooden fence.
- The first party have implemented the Landscape Plan imposed by the planning authority. Hedging has been planted along the northern party boundary.
- Drawings submitted are to scale and easily measurable.
- The house will have no impact upon loss of privacy / sunlight / overshadowing to appellants property, given distances involved.
- The location of the dwelling will not devalue the appellants property in any way.

6.3. Planning Authority Response

- No response received.

6.4. Third Party Response

- The dwelling is located in an unsuitable and unacceptable location.
- The dwelling size and location impacts upon the appellants privacy and has taken away their view of Ballyhooley Mountains.
- Request that the 1.8m high hedge be reduced to 1.5m

7.0 Assessment

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

- **Revised Location and Design / Impact Upon Residential Amenity**
- **Environmental Impact Assessment**
- **Appropriate Assessment**

7.2. Revised Location and Design / Impact Upon Residential Amenity

- 7.2.1. Regard is had to concerns raised by the third party, owners of the part dormer / part single storey dwelling to the north east, with respect to loss of light, overshadowing, overlooking, loss of views and devaluation of property arising from the size, scale and location of the dwelling to be retained and completed.
- 7.2.2. In the first instance I note that the planning legislation is not designed to protect private views. There are no designated or protected views at the location of the appeal site.
- 7.2.3. I note the change in location as per PL Reg. Ref. 16/5182 and the location of the dwelling as built for retention. Having regard to all of the information before me, and having conducted a visit of the site and its environs, I am of the opinion that the location, scale, mass and design of proposed development, is acceptable in the context of existing permitted development. This is a rural area and the dwelling to be retained and completed is well set back from the northern party boundary (some 16m) and the appellants dwelling (some 47m). The northern party boundary is well defined with mature trees, hedgeline and timber boundary fence. In addition, I note the applicant's proposal to plant a new 1.8m high hedge along the northern boundary at the location of the timber fence. I consider this to be wholly acceptable.
- 7.2.4. I consider the revised location of the dwelling on the site is insignificant and would not have any material impact upon the appellants property.
- 7.2.5. I do not consider the scale of the dwelling to be retained and completed is excessive in its context. Given the separation distance from the appellants property concerns of loss of privacy, overlooking, overshadowing and loss of light are unfounded. There

will be no material impact upon the residential amenity enjoyed by the appellants and no devaluation of property would arise in this instance.

- 7.2.6. Overall I consider that the location and design, taken together with the size of the site, screening and development in the vicinity, is such that the proposal would not be visually incongruous or diminish residential amenity so as to warrant a refusal of permission.

7.3. **Environmental Impact Assessment (EIA)**

- 7.3.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.4. **Appropriate Assessment (AA)**

- 7.4.1. The appeal site is located approx. 6.5 Km to the east of the River Blackwater Special Area of Conservation (SAC Site code 002170).
- 7.4.2. The planning report on file concludes that appropriate assessment is not required.
- 7.4.3. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest Natura 2000 sites. 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**

- 8.1.1. 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 planning history of the site and the existing pattern of development on the site and in the vicinity, it is considered that, subject to compliance with the conditions set out below, the development to be completed and retained would not be injurious to visual amenity of the area 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 retained, carried out and completed in accordance with the plans and particulars lodged with the application, 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 development shall comply with the terms and conditions of planning permission Reg. Ref. No. 16/5812 which governs the overall development of the lands of which the site forms part, save where amended by the terms and conditions herein.

Reason: In the interest of clarity.

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. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

5. (a) The entrance shall be recessed a minimum of 4.5m from the front boundary fence and side walls shall be splayed at an angle of 45 degrees and walls and piers shall not exceed a height of 1 m over the level of the adjoining public road.

(b) The carriageway of the public road shall not be raised, lowered or otherwise altered at its junction with the access driveway to the proposed dwelling.

(c) The gradient of the access driveway shall not exceed 3% for the first seven metres adjacent to the carriageway of the public road.

(d) Side walls and piers of the entrance and any new road boundary shall be of (a) local natural stone, (b) sod and stone or (c) earth berm with hedge of indigenous species planted on top at 60 cm intervals.

(e) Any gates shall open inwards, only.

(f) Sight distance of 120m to the north and 120m to the south shall be provided from centre point of entrance 2.4m back from the public road edge. No vegetation or structure shall exceed 1m in height within the sight distance triangle.

Reason: In the interest of traffic safety and visual amenity.

6. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

Reason: In the interest of public health.

7. 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.

8. (a) The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

(b) Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interests of public safety and residential amenity

Fiona Fair
Planning Inspector
03/10/2018