



An  
Bord  
Pleanála

## Inspector's Report ABP-301779-18

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<b>Development</b>	Demolish existing extensions and shed and refurbish and alter existing dwelling and construct a new dwelling
<b>Location</b>	St.Jude the Rock, part of Abbey Lands, Kinsale, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/4146
<b>Applicant(s)</b>	Kevin Sheehan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Paul & Catherine Brugger
<b>Date of Site Inspection</b>	21 <sup>st</sup> November, 2018
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

1.1. The site of the proposed development is located in the townland of Abbey-lands on the north side of the town of Kinsale and within the town boundary. It comprises a site that slopes in a southerly direction on which there is a single-storey dwelling and detached shed along its eastern road frontage. The remainder of the site comprises a field enclosed by hedgerow. The site is bounded to the west and north by detached houses and there is housing on the opposite side of the road and to the south.

## **2.0 Proposed Development**

2.1. The proposed development would comprise:

- the demolition of an existing store/shed,
- the demolition of existing extensions to an established single-storey house,
- the refurbishment, alteration and modification of door and window openings of the existing house and the construction of a new two-storey extension to the rear to form a four bedroom house, and
- the construction of a new detached, four bedroom dwelling to the south of the existing dwelling.

The new development would be of contemporary design. The proposal would include a new communal site entrance, modification to the site's boundaries, connection to public watermains and sewers, and the construction of a stormwater attenuation tank. Parking for four cars would also be provided on the site.

2.2 Details submitted with the application included an Architect's Report, an Engineer's Report and an Architectural Heritage Impact Statement.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 11<sup>th</sup> May, 2018, Cork County Council decided to grant permission for the proposed development subject to 5 conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted the reports received, third party submissions made, and development plan policy. The proposal was seen to provide sufficient separation distance from nearby properties and it was submitted that there would be no overlooking arising. It was stated that the development would not block or cause a significant loss of outlook or ambient daylight to existing properties. The design of the development was seen to be acceptable.

#### **3.2.2. Other Technical Reports**

The Archaeologist had no objection to the proposal but, given the site being within the Zone of Archaeological Potential of the Battle of Kinsale, it was recommended that a condition be attached with a grant of permission requiring the undertaking of an archaeological survey across the site.

The Heritage Officer noted the existing house is included in the National Inventory of the Architectural Heritage (NIAH). She had no objection to permitting the proposal subject to conditions.

The Area Engineer had no concerns with the engineering design concepts within the site but considered that surface water drainage issues required to be considered. Further information was requested on storm water drainage and on the provision of a footpath across the site frontage.

### **3.3. Prescribed Bodies**

Irish Water had no objection to the proposal.

### **3.4. Third Party Observations**

Objections to the proposed development were received by the planning authority from Breda McFadden, John and Carolyn Duggan, Paul and Catherine Brugger, and Amy Callanan. The principal planning concerns related to the form, scale and design of the proposal and traffic safety concerns.

The applicant submitted an unsolicited response to the observations made.

- 3.5 A request for further information, based on the Area Engineer's request, was sought from the applicant on 15<sup>th</sup> March, 2018 and a response was received on 17<sup>th</sup> April, 2018. This included revised drawings relating to footpath and storm water drainage provisions.

Following the receipt of the information, the reports to the planning authority were as follows:

The Area Engineer had no objection to permission being granted subject to the attachment of a condition.

The Planner noted the Area Engineer's response and recommended that permission be granted subject to a schedule of conditions.

## **4.0 Planning History**

I have no record of any previous planning application or appeal relating to the site.

## **5.0 Policy Context**

### **5.1. Kinsale Development Plan 2009-2015**

#### Zoning

The site is zoned 'Established Residential'.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellants reside in a dwelling adjoining the north-west section of the site. The grounds of the appeal may be summarised as follows:

- The appellants are disappointed that the scale, design, bulk and positioning of the proposed two houses were permitted. There is concern that their privacy and natural light will be seriously compromised.
- Particular attention is drawn to the bedroom window on the lower house on its west side. It is submitted that this window is in direct line of sight from/to their kitchen, living and bedroom spaces and it is requested that it be removed or repositioned to the south.

A copy of the appellants' submission to the planning authority is attached with the appeal.

### 6.2. Applicant Response

The applicant's response to the appeal may be summarised as follows:

- There is no policy impediment in the Kinsale Development Plan to infill development.
- The proposal does not impact on the ground floor front/south elevation window of the appellants' house or on the front elevation window to Bedroom 4 in the house as it is outside the 45 degree rule of thumb as per Section 2 'Light from the Sky' of BRE 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice'. The proposal is within the 45 degree rule of thumb for the ground floor office window on the east elevation and the first floor window on the east elevation to Bedroom 4 but the diffuse daylighting of the neighbouring windows is not adversely affected by the proposed development.
- The proposed first floor bedroom window in the lower house of concern is 32.5 metres from the appellants' house and the first floor level of the proposed house is 2.355 metres below the finished ground floor level of the appellants'

house. Given the distance and height differences, the proposal will not adversely affect the amenity of the appellants' house.

- Notwithstanding the above, the applicant will accept the relocation of the first floor west-facing window if the Board considers it appropriate.
- The development does not include the provision of a roof garden but rather provides a sedum roof finish. The roofs are not intended to be accessible other than for maintenance.
- It is noted that neither the existing house on the site or the boundary wall are protected structures and that all elements of built heritage significance are to be retained.
- Car parking will be provided in accordance with development plan standards and required sightlines will be provided. It is also noted that a new footpath will be provided along the site's frontage.

The applicant attached drawings relating to the details submitted in the response.

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

I have no record of any response to the appeal from the planning authority.

### **6.4. Further Responses**

The appellants were afforded the opportunity to respond to the applicant's response to their appeal. It was submitted that the proposal was contrary to the provisions of the Kinsale Development Plan for reasons relating to density, scale and character. It was reiterated that their concern relates to privacy from the lower house and daylight from the upper house and it was submitted that their living areas will be overshadowed by the loss of natural daylight and solar gain, with the upper house being 3.5m in front of their building. The appellants would welcome the relocation of the west-facing first floor window of the lower house if permission is granted. It was further stated that the proposal will increase traffic in the area and will reduce the amount of available on-street parking.

## 7.0 Assessment

- 7.1. The third party appeal relates primarily to the impact of the proposed development on the residential amenity of the appellants' residential property but also makes reference to the scale, design and traffic impact of the proposal.
- 7.2. The site of the proposed development is zoned 'Established Residential' in the Kinsale Development Plan. The site has a land area of 0.1265 hectares, is located in a residential area within the built-up urban section of the town, and is fully serviceable. The proposed development is wholly compatible with its zoning provisions, the site can accommodate the scale of development proposed, and the proposal is acceptable in principle.
- 7.3. I note the contemporary designs of the proposed new dwelling and the extension to the existing cottage. The proposed demolition of other structures other than the existing main house is considered acceptable in order to provide for a development that can accommodate basic needs of occupiers of two houses at this location. The existing structures on this site are not protected structures. The proposed redevelopment and extension to the existing house is viewed as a sustainable form of development. While the contemporaneous design is not in character with the established residential properties in the general vicinity, it must be accepted that there is a wide variety of house types and designs at this location. There can be no reasonable objection to a modern design approach to new development on this site based on the variety of designs that prevails.
- 7.4. With regard to the impact of the proposed development on the amenities of established residential properties, I must first note the residential nature of the existing site and the significant degree of overlooking of this site that occurs from neighbouring dwellings. In this built-up urban location, one would expect a degree of overlooking of neighbouring properties and, indeed, given the form, layout and context, one would also expect new development on this inner urban site to be in close proximity to neighbouring structures. Thus, it must be anticipated that the proposed development is likely to alter the established outlook of neighbouring properties due to the increase of structures on this site, while also acknowledging that existing neighbouring properties themselves have substantial impacts on the functioning and amenity of this site as a residential property.

- 7.5. It is my submission to the Board that the applicant has gone to significant lengths to ensure that the design of the proposed development in this urban context would restrict the extent of potential adverse impacts on neighbouring properties. It is clear that the scale and height of the proposed development seeks to achieve minimal intrusion on neighbouring properties, while providing for a reasonable extension of the existing house to achieve a sustainable outcome. Furthermore, I am satisfied that the design has ensured that there would be no substantial degree of overlooking of neighbouring properties due to the siting of openings and the separation distance between the proposed structures and neighbouring houses. It may be considered by the Board to be appropriate to relocate the proposed first floor west-facing window in the lower house to further minimise impact on the appellants' property. I am satisfied with the design as proposed. With regard to the proposed extension of the existing upper house, I am satisfied that the form, character and design of the proposed extension, the orientation and the separation distance of more than 5 metres between the rear elevation of the extension and the gable of the appellants' house, would have no significant impact by way of overshadowing of the appellants' property. Having regard to the considered design of the proposed development, I do not accept that the proposed development would have a significant adverse impact on the amenities of established residential properties.
- 7.6. With regard to the traffic impact, I accept that the public road onto which the site has frontage is a relatively narrow road and forms a steep climbing section, where the established house immediately adjoins the carriageway. The applicant seeks to provide a safe vehicular entrance into the site and to accommodate on-site parking to required standards. In the context of the established nature of the development at this location and the vehicular access arrangements, I do not consider that the proposed development would pose any particular traffic hazard by making provision for vehicular access onto and from this site within this town location.

Note: Having regard to the site size falling very substantially below the threshold for triggering mandatory environmental impact assessment, the limited scale of the proposed development, the fully serviced nature of the proposed development, its location within the urban context of Kinsale, and the nature of the receiving environment within that context, 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.

## **8.0 Recommendation**

8.1. I recommend that permission is granted subject to the following reasons, considerations and conditions.

## **9.0 Reasons and Considerations**

Having regard to the design, layout and siting of the proposed development on residentially zoned lands as set out in the Kinsale Development Plan, it is considered that the proposed development would not adversely impact on the residential amenities of adjoining properties, would not endanger public safety by reason of traffic hazard and would otherwise be in accordance with the provisions of the current Development Plan. 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 drawings and details submitted to the planning authority on the 17<sup>th</sup> April, 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 and extension 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. Water supply and drainage arrangements, including the 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. 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.

**Reason:** In the interest of residential and visual amenity.

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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.

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Kevin Moore  
Senior Planning Inspector

26<sup>th</sup> November 2018