



An
Bord
Pleanála

Inspector's Report ABP-301837-18

Development	Dwelling, garage and waste water treatment unit
Location	Knocknacurra, Kinsale, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/6317
Applicant(s)	Denis Keohane
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Maebh Ring & Noel Fitzgerald
Date of Site Inspection	21 st November, 2018
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The 0.188 hectare site is located to the south of the town of Kinsale in County Cork, just off the R600 regional road which lies immediately north-east of the River Bandon at a point close to its entry into Kinsale Harbour. It has panoramic views to the north and north-west. The site comprises part of a field that is in use for grazing. It is elevated over a minor road onto which it has frontage and rises from its frontage to higher ground in a south-easterly direction. It is bounded by hedgerow along three sides and is open to the remainder of the field which is sited behind and to the side of an existing cottage located at the junction of the minor road with the R600. Other development in the immediate vicinity comprises one-off houses to the north and east. The appellants' property is located on the opposite side of the minor road to the north of the site.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a two-storey, detached, four bedroom house of contemporary design. It would incorporate a garage to the side of the house. The development would have a stated gross floor area of 247 square metres. The proposal would be served by a packaged treatment system and soil polishing filter and by a private well.
- 2.2. Details submitted with the application included a site characterisation report relating to waste water treatment.

3.0 Planning Authority Decision

3.1. Decision

On 17th May, 2018, Cork County Council decided to grant permission for the development subject to 5 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted development plan provisions and a third party submission. It was stated that the County Development Plan and Local Area Plan support the principle of a house at this location because it is inside the development boundary of Kinsale. It was noted that the southern boundary of the site has an objective to provide an amenity walk and it was submitted that the reality of delivering this was near impossible or at least highly improbable. It was further submitted that uncertainty relating to water supply required clarification, as did further details on wells and sewage systems in the vicinity. There were no particular concerns about impacts on residential amenity, while the house design, in particular fenestration, was criticised. The development was not considered to be visually obtrusive in its setting. A request for further information was recommended.

The Senior Planner recommended that further information be requested in accordance with the Area Engineer's request.

3.2.2. Other Technical Reports

The Area Engineer questioned the availability of sight distance, noted no engineering design for storm water disposal, and acknowledged developments in the area were served by bored wells. The 'T' values were noted from the site characterisation form and it was submitted that the results suggested the T test soil horizon would not provide any additional treatment of effluent. It was further noted that two down gradient wells had been missed. Further information was requested relating to redesign of the waste water treatment system, surface water drainage provisions, and site distance provisions at the proposed entrance.

3.3. Third Party Observations

An objection to the proposed development was received by the planning authority from Maebh Ring and Noel Fitzgerald. The grounds of the appeal reflect the concerns raised.

3.4 On 1st November, 2017, further information was requested in accordance with the Planner's recommendation. A response to the request was submitted to the planning authority on 20th April, 2018. Details included a revised site suitability assessment, details on the waste water treatment system, details of a soakpit test, sightline details, and associated revised plans and drawings. The details included relocation of the proposed house, redesign of the entrance and the waste water treatment system, and revisions to the layout and design of the house.

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

The Area Engineer had no objection to the proposal subject to a schedule of conditions.

The Planner noted the Area Engineer's conclusions and recommended that permission be granted subject to conditions. The Senior Executive Planner concurred with the recommendation.

4.0 Planning History

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

5.0 Policy Context

5.1. Bandon Kinsale Municipal District Local Area Plan 2017

Zoning

The site is zoned 'Existing Built-up Area'.

Waste Water Infrastructure

The Plan states that Kinsale WWTP has adequate spare capacity to accommodate proposed development in Kinsale.

Specific Objectives

These include:

KS-U-03 – Pedestrian walkway through residential neighbourhood connecting to the town on the north and the foreshore on the south.

The indicative proposal follows a route immediately behind the proposed site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- There are serious health and safety concerns regarding the proposed waste water treatment system, with particular reference to the existing slope, depth to rock, and 'T' test results for the site.
- There is further concern relating to the proposed siting of the storm water soakaway upstream of existing bored wells.
- There is a deficiency in information on the subdivision of the land, particularly relating to the existing septic tank and percolation area and the application does not show how the existing cottage and proposed house would be served by potable water.
- There are further concerns relating to verge drainage and inadequacy of sightlines.
- Significant alterations were made to the proposal during the application process and should have been re-advertised.
- The proposal would have an impact on the appellants' privacy by way of overlooking.

The appeal includes a copy of the appellants' submission to the planning authority.

6.2. Applicant Response

The response to the appeal may be synthesised as follows:

- With regard to loss of privacy, there is an existing evergreen hedge forming the boundary to the road adjacent to the gable of the existing house which prevents overlooking. There is adequate separation distance and the proposed house has been orientated so that living and dining space face the river.

- The adjoining cottage predates planning law. The septic tank is outside the applicant's ownership and control. The existing cottage is served by a mains water connection, connected historically to the watermains for a cluster of houses to the south of the cottage.
- With regard to engineering issues, a Consulting Engineer's report is submitted. This includes the following:
 - The proposed percolation area will be structurally stable.
 - As an additional measure, it is proposed to install rock gabions to the side of the proposed percolation area to ensure that the structural stability of the percolation area is further guaranteed.
 - It is refuted that bedrock is at 400mm below surface level. Shale was encountered at 0.7m from ground level.
 - The T-value of 3min pertained to a superseded test result at the other side of the site. The treatment system was relocated and a second site suitability test was carried out. P-test results were within the acceptable range.
 - After the waste water is passed through the sand polishing bed the final water discharge to ground for percolation is well below the minimum requirements.
 - Separation distances are all within the requirements of the EPA Code of Practice.
 - A UV filter system can be provided to further treat the waste water.
 - Conditions 2, 3, 4 and 5 of the planning authority's decision ensures that the treatment system would be installed, commissioned, function and be maintained in full compliance with the EPA Code of Practice.
 - The location of the proposed soakaway is down stream of the proposed percolation area and is not located in a position to compromise any other percolation areas or soakaways in the vicinity.
 - The applicant proposes to relocate the soakaway away from the appellants' well location.

- Regarding the proposed entrance, the Council agreed with the applicant's position at the further information stage of the application. An additional amendment is now proposed to achieve 80m sightlines in both directions at a 2.4m set back.

6.3. **Planning Authority Response**

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

6.4. **Further Responses**

The appellants were afforded the opportunity to respond to the applicant's response to their appeal. They reiterated their concerns relating to effluent and storm water disposal, overlooking, servicing of the neighbouring cottage, traffic safety, and design of the proposed house.

7.0 **Assessment**

7.1 Introduction

7.1.1 I consider that the principal planning issues relating to this appeal are:

- The proposed development in the context of the Development Plan,
- Effluent disposal and storm water discharge,
- Impact on residential amenity,
- Traffic impact, and
- Building design.

7.2 The Proposed Development in the Context of the Development Plan

7.2.1 The site of the proposed development is located within the boundary of the environs plan for Kinsale as set out in the Bandon Kinsale Municipal District Local Area Plan

2017. It is zoned 'Existing Built-up Area'. This site is unserved. Any occupiers of the proposed house would be reliant upon a private waste water treatment system to treat sewage and on a private bored well to provide a potable water supply. The same recently adopted Local Area Plan clearly states that the Kinsale waste water treatment plant has adequate spare capacity to accommodate proposed development in Kinsale. I further note that Kinsale has a public water supply that is sourced from the Bandon River.

7.2.2 It is my submission to the Board that it is entirely unsustainable to be facilitating unserviceable housing development in this manner at this most sensitive location adjoining the Bandon River. There can be no sustainable planning logic to allow such development at this time at this location. In my opinion, it is irrational to be designating such a location for residential development when the serviceability of other lands within the town of Kinsale and its environs can adequately accommodate new development. Permitting development at this location and in this context must be seen to be premature pending the provision of water and sewerage facilities in the interests of orderly development, protecting groundwater and surface waters and protecting the quality of the natural environment.

7.3 Effluent Disposal and Storm Water Discharge

7.3.1 The proposed site is extremely problematic for the provision of an on-site private effluent treatment system. There is evidently difficulties in terms of the depth of soil to rock on this site. The incline on this site and the constrained nature of the site requires the pumping of effluent for final discharge. The site itself is extremely constrained by the proximity of existing housing in the vicinity and this is significantly compounded by the siting of bored wells and private effluent treatment systems serving these houses. Indeed, it is very clear from the details that are available in the application that there remains a gap in knowledge about the location and extent of waste water and water supply provisions for houses adjoining this site.

7.3.2 Further to these serious concerns, I must comment upon the extent of provisions now proposed by the applicant to address the serious pollution concerns that would result from a development of this nature on this site. I suggest to the Board that the

lengths to which the applicant proposes to go with dealing with the pollution threat indicates that this proposal is indeed a serious pollution concern. Having commenced with a proposal for a packaged treatment system to which effluent would have been pumped to a soil polishing filter on its east side, the proposal then progressed to one for a new waste water treatment system with associated raised sand polishing filter on the west side of the site. I note for the Board that at this time the proposed sand polishing filter was at the location understood at that time to be the location for the proposed bored well. The Board will note that at the time of the taking of the decision by the planning authority there was no further understanding of where the bored well supply was to be taken from other than from this location, based upon the available drawings and details. Notwithstanding the deficiencies of such pivotal information, a decision to permit the proposal was made. Following the making of the third party appeal, I then note from the applicant's response to the appeal the extent of revisions which the applicant proposes to make to mitigate the impacts of the proposed effluent treatment system. Firstly, it is suggested that, as an additional measure, it is proposed to install rock gabions to the side of the proposed percolation area to ensure that the structural stability of the percolation area is further guaranteed. The siting of the percolation area on elevated ground behind the house, where the house is to be sited following significant cutting into the hill, is clearly a serious concern for the functioning of the treatment system proposed. In addition to this, the applicant then suggests that a UV filter system can be provided to further treat the waste water, providing a UV treatment tank alongside the proposed treatment unit itself. I note that the appellants also expressed concern about the siting of a proposed soakaway and the applicant, in response to the appeal, then proceeded to suggest relocating the proposed soakaway further away from the appellants' well. These very extensive additional proposals indicate that this site is particularly challenged.

7.3.3 Overall, it is my submission to the Board that this site is not suited to the disposal of effluent by way of a private on-site treatment proposal. It is extremely constrained. It has particularly difficult topographical characteristics to accommodate a functioning treatment system. It has seriously questionable soil conditions in terms of the depth to bedrock. It is bounded by other residential properties that have on-site waste water treatment systems and bored wells in very close proximity. Finally, it should

not be missed that this location is just over 50 metres from the Bandon River. I consider that it may be concluded that the proposed development constitutes a significant pollution threat.

7.4 Impact on Residential Amenity

7.4.1 The proposed house would be sited on the side of a hill. It would be elevated over the road and over the house immediately to the north on the opposite side of the minor road, i.e. the appellants' house. I note that the proposal is to significantly cut into the hill in order to integrate the house with its challenging context.

Notwithstanding this, it is apparent that the house would remain substantially more elevated than the house to the north. There is effectively no hedgerow along the site's frontage. There is a dense hedgerow along the road frontage within the appellants' property. This greatly shields the existing house and would prevent a significant degree of overlooking that would result from the development of a house on the appeal site. However, the two-storey nature of the proposed house, with the main living area at the upper level along with a principal bedroom, would cause concern in terms of potential for overlooking of the private amenity space of the appellants' property. I understand that there is an encroachment of suburban development occurring in the general area and this may lead to a view that, with this, may come a certain degree of anticipated reduced privacy with the built-up of residential units.

7.4.2 With the existing house being on substantially lower ground, the retention of the established hedgerow along the road frontage of the appellants' property and a separation distance of some 20 metres between the proposed house and the existing house, I do not consider that there would be overlooking of windows of the established property. While landscaping on the appeal site could assist in minimising impact, one must be logical about the selection of such a site, which has panoramic views north and north-westwards towards the Bandon River. Enclosing the frontage by planting or fencing that would in some way limit views in that direction may not be sustainable into the future.

7.4.3 Having regard to the above, and on balance, I consider that the proposed development would not have significant adverse impacts on the amenities of residential properties in this area.

7.5 Traffic Impact

7.5.1 The proposed development would access a very minor road serving a few sporadic houses. The provision of another residential access onto such a road has no particular concern in terms of impact on the road's carrying capacity or structure. The limitation of sightlines on this minor road does not pose any significant traffic safety concern, albeit that the applicant has shown how 80m sightlines can be obtained. Visibility at the junction with the nearby R600 is adequate and traffic turning movements would not pose a traffic safety concern.

7.6 Building Design

7.6.1 There is a wide variety of house types in the immediate vicinity. The contemporary design could not be viewed as being any more intrusive, in design terms, in such a location as the range of established residential properties that prevail.

Note 1: Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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.

Note 2: It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in

combination with other plans or projects would not be likely to have a significant effect on any European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

8.0 Recommendation

- 8.1. It is recommended that permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1. The site of the proposed development is located within the settlement boundary of the environs of Kinsale in the Blarney Macroom Municipal Local Area Plan 2017. The Plan acknowledges that Kinsale waste water treatment plant has adequate spare capacity to accommodate proposed development in Kinsale. Furthermore, the town of Kinsale is served by a mains water supply. The proposed development would be reliant upon a private waste water treatment system and bored well water supply. It is considered that the proposed development would be premature by reference to the existing deficiency in the provision of public piped water and sewerage facilities serving the area and the period within which the constraint involved may reasonably be expected to cease. Furthermore, it is considered that the proposed development, and the precedent it would set, would undermine the orderly development of Kinsale on available serviced lands. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the constrained nature of the site, the difficult topographical characteristics to accommodate a functioning on-site effluent treatment system, the lack of clarity on depth to bedrock on this site, the proximity of the proposed treatment system to bored wells serving adjoining residential property downgradient of the proposed system, and the proximity to the nearby River Bandon, it is considered that the proposed development would be prejudicial to public health, notwithstanding the proposal to provide a proprietary effluent treatment system.

Kevin Moore
Senior Planning Inspector

29th November, 2018