



An  
Bord  
Pleanála

## Inspector's Report 301895-18

---

<b>Development</b>	The construction of a two storey type dwelling and all associated works.
<b>Location</b>	15a Bayview Dungarvan, County Waterford.
<b>Planning Authority</b>	Waterford City and County Council.
<b>Planning Authority Reg. Ref.</b>	18/230.
<b>Applicant</b>	John and Audrey Donovan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Permission with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Tm Holmes.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	22 <sup>nd</sup> August 2018.
<b>Inspector</b>	Derek Daly.

## **2.0 Site Location and Description**

- 2.1. The appeal site is located within the built up area of the town of Dungarvan and to the west of the central area of the town.
- 2.2. The appeal site is located within an existing residential estate located off the old Youghal / Cork Road comprising a mix of two storied dwellings both semi-detached and detached dwellings.
- 2.3. The appeal site forms the side garden area of a two storey detached property located to the north of the proposed appeal site. There is a wooden gateway along the road side frontage of the site but there is no dished kerb onto the road at the location of this gateway.
- 2.4. There is also a two storey detached dwelling to the south of the appeal site. The western boundary is defined by the residential estate road. On the opposite side of the road is two storied detached dwelling.
- 2.5. The site is rectangular in configuration and has a stated area of 0.0493 hectares.

## **3.0 Proposed Development**

- 3.1. The proposal as submitted to the planning authority on the 6<sup>th</sup> of April 2018 was for construction of a two storey type dwelling and all associated works. The stated floor area of the proposed dwelling is 188.94m<sup>2</sup>.
- 3.2. The front building line of the proposed dwelling has an approximate uniformity with the existing dwellings to the north and south. The dwelling is two storied of a modern design and construction with a ridge roof and an overall height to ridge level of 8106 mm above finished floor level. The proposed dwelling has a rear garden depth of a minimum of 11.68 metres with a side passage area on both sides.
- 3.3. It is proposed to connect to existing public piped services.

## 4.0 Planning Authority Decision

### 4.1. Decision

The decision of the planning authority was to grant planning permission for the development subject to eleven conditions.

Condition no 2 requires the omission of gable windows at attic level.

Condition no. 7 requires submission and agreement in relation to proposed boundaries.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Report

The planning report dated the 12<sup>th</sup> of December 2017 refers to:

- Relevant provisions of the current development plan including zoning of the site;
- Submissions received including a third party objection;
- An appraisal of the development in the context of the information submitted;
- The acceptance of the principle of the proposed development in the context of the current zoning of the site;
- Reference to development management standards;
- That the proposed attic windows on the side elevation be omitted;
- Permission is recommended.

### 4.3. Other submissions.

A submissions were made by a nearby landowner raising issues of density, the proposed height of the proposed dwelling and the entrance on the site.

## 5.0 Planning History

5.1. Planning history has not arisen in any submission relating to the appeal.

## 6.0 Policy Context

### 6.1. Development Plan

- 6.1.1. The current operative plan is the Dungarvan Town Development Plan 2012-2018 and the site is zoned Residential Medium with the objective “to protect the amenity of existing residential development and to provide for new residential development at medium density”.
- 6.1.2. Chapter 10 of the plan relates to Development Management and also outlines guidance and standards in relation to development including standards for individual dwellings including open space standards section 10.4 and parking section 10.49.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The appellant who resides across the road from the appeal site in a submission dated the 19<sup>th</sup> of June 2018 refers to:

- The development is in the side garden of a dwelling and increases density and will set an undesirable precedent.
- The ridge level of the dwelling is positioned too high and approximately 0.5 metres above the appellant’s ridge height.
- Reference is made to the issue of an existing entrance gate to the site installed without planning permission and there is no reference to a retention permission.
- Reference is made to the details submitted in relation to the application form with regard to the applicant and other matters.

### 7.2. Response to the Grounds of appeal

#### **The Applicant Response.**

The applicant in a response dated the 17<sup>th</sup> of July 2018 refers to;

- In relation to density, with the construction of the proposed dwelling the density would still only be approximately half of the permitted density.

- There are only two dwellings in the estate including the appeal site which have side gardens to permit a sub-division and if both sites were to have a dwelling constructed in the side garden the density would still be lower than permitted density.
- In relation to ridge height the ridge height was determined on the basis on adjacent dwellings to the north and south and also the levels of the site which rises from south to north.
- Issues of impact on privacy do not arise given the boundary of the appellant's front garden. A condition is included by the planning authority in relation to removal of gable windows with regard to privacy of adjacent houses.
- The proposed entrance is in no way opposite the appellant's entrance.
- The entrance referred to is in existence for 15 years. the current proposal is for a dwelling and all associated development works which would encompass the provision of the entrance.
- There are no issues in relation to ownership and the land was transferred from the applicant's parents who owned this land since the 1950s.

## 8.0 Assessment

- 8.1. Having regard to the submissions received and the documentation submitted the primary issue in relation to this appeal relates to the acceptability of the nature of the development as proposed and also considerations specific to the site itself in particular design and impact on the adjoining properties and area.
- 8.2. Principle of development.
- 8.2.1. The site is within an area zoned Residential Medium with the objective "*to protect the amenity of existing residential development and to provide for new residential development at medium density*". The proposed development is consistent with the zoning and arises from the nature of existing plot configuration where an existing site has a large side garden and it is proposed to build a dwelling in the side garden. The site is an infill site between two existing detached dwellings. The proposal for a detached dwelling of a similar scale and height is consistent with the existing established pattern of development.

8.2.2. I note reference in the grounds of appeal to the issue of density. The site forms part of an area which in the context of an urban area is relatively low in terms of density and the presence of an additional dwelling would not give rise to excessive density. In relation to precedent, the current proposal as indicated arises from the circumstances of the particular configuration of the site what presents an opportunity for consideration of sub-division/infill. Such proposals can only be considered on the merits of the individual site.

8.2.3. In relation to the principle of the development given the zoning, the use proposed and nature of the site I would have no objection to the principle of the development.

8.3. Site specific considerations.

8.3.1. In relation to the design as submitted, the proposal dwelling is two storied in design of a modern design and construction and it is of a similar height to the dwellings to the north and south and the housing area generally. It retains a similar building line. The site provides for onsite parking which complies with development plan management standards and open space provision is to the front and rear and of a satisfactory area. I would have no objection to the dwelling type as submitted.

8.3.2. The site as a subdivision has no defined northern boundary and a condition in relation to the nature of the boundary should be agreed by condition.

8.4. Impact on residential amenities.

8.5. The primary issue to consider is the impact on privacy from overlooking. The appellant resides on the opposite side of estate road and therefore overlooking of rear garden of private areas does not arise. The appellants front garden has a high hedgerow but the front area and garden of this dwelling is visible from public areas of the road and footpath at the entrance to the site from the roadway.do not arise given the boundary of the appellant's front garden. In relation to adjoining properties to the north and south I note that a condition is included by the planning authority in relation to removal of gable windows with regard to privacy of these adjacent houses and I would have no objection to such a condition.

8.6. Services.

8.6.1. It is proposed to connect to existing public services and I would have no objection to this. In relation to access reference is made to the existing gateway and to the matter

of unauthorised development. Issues of enforcement are matters for the planning authority.

8.6.2. The proposal includes the formation of the entrance and the drawing refer to existing entrance. The provision of an entrance to serve a dwelling would not give rise to a traffic hazard as it will use an existing residential estate road. Issues relating to formation of the entrance to meet the requirements of serving an individual dwelling and the creation of a dish kerb can be conditioned to comply with the local authority requirements for such works.

#### 8.7. Other matters

8.7.1. Reference is made in the grounds of appeal to the details submitted in relation to the application form with regard to the applicant and other matters. The applicant's response indicates that there are no issues in relation to ownership and the land was transferred from the applicant's parents who owned this land since the 1950s.

8.7.2. There is nothing to suggest that the applicants are not in a position to make the application and that ownership matters arise to prevent the application being submitted.

### 9.0 Recommendation

9.1. It is recommended that permission for the development be granted for the following reasons and considerations.

### 10.0 Reasons and Considerations

Having regard to the pattern of development in the vicinity which is an established residential estate, the nature and scale of the proposed development and the pattern of existing development it is considered that the development would not be contrary to the proper planning sustainable development, or injurious to the residential amenities of properties in the area.

### 11.0 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 6<sup>th</sup> of 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 interests of clarity

- 2 Details of the materials, colours and textures of all the external finishes to the proposed development 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 The roof colour of the proposed house shall be blue-black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

**Reason:** In the interest of visual amenity

- 4 The site shall be landscaped, using only indigenous species, in accordance with an overall landscaping scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) details relating to all of the boundaries of the site;
- (b) any walls forward of the front building line shall not exceed 1.2 metres in height
- (c) details of planting proposed on the site and
- (d) a timescale for the implementation of the planting and landscaping.

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

- .5 Water supply and drainage arrangements including disposal of surface water arising from the development, shall comply with the requirements of



the planning authority for such works and services.

**Reason:** In the interest of public health

- . 6 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

- 7 The formation of the vehicular access to the site including alteration of the existing public footpath shall be constructed in accordance with the requirements of the planning authority.

**Reason:** In the interest of orderly development and traffic safety

- 8 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.

- 9 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management

- 10 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.

---

Derek Daly  
Planning Inspector

29<sup>th</sup> August 2018