



An
Bord
Pleanála

Inspector's Report 302401-18

Development	Refurbishment, alterations and extension of an existing 2 storey house and 2 no. existing garages and associated site works.
Location	8, Friars Gate, Town Plots, Kinsale, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	184658.
Applicant(s)	Sylvia and Dane Curtis.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	3 rd Party v Grant.
Appellant(s)	Collette Quirke, Sharron Austin and Liam Collins.
Observer(s)	None
Date of Site Inspection	3 rd December 2018.
Inspector	Des Johnson.

1.0 Site Location and Description

The site is located a short distance to the north west of the town centre. It is close to the entrance to the heritage part of the town.

There is a derelict 2 storey dwelling and two adjoining single storey garages on the site. It appears that the garages were previously roofed with the ridge height below that of the derelict dwelling. There is a two-storey extension to the rear of the derelict dwelling and a small garden area bounded by a stone wall.

Adjoining to the north of the site there is a small triangular shaped area of open space well maintained. To the west and north west is a terrace of 3 single storey dwellings with dormers – Mandeville Terrace. There is a narrow pedestrian laneway adjoining to the south of the appeal site; this leads towards a cemetery a short distance to the west. To the south of the laneway is a terrace of two storey buildings of varying heights.

Friar's Gate is a narrow thoroughfare with no footpaths on the eastern side of the carriageway along this stretch and none to the front of the appeal site. It had a steady stream of traffic at the time of inspection – 3pm Monday.

I attach photographs taken at the time of inspection.

2.0 Proposed Development

- 2.1. The proposal is for the refurbishment, alterations and single and two storey extension to an existing two storey dwelling house and 2 no. existing garages and associated site works.
- 2.2. The site area is stated to be 0.0182 hectares. The gross floor area of the existing house is stated to be 89m² and the garages 40m². The floor area of the proposed extension is 16m² at ground level and 9m² at first floor level. The proposed extension over the garages is 40m².
- 2.3. It is stated that the proposed works would be to the exterior of a structure located within an Architectural Conservation Area.

- 2.4. Proposed water supply is from public mains. It is proposed to make a new connection to the public foul and surface water sewer.
- 2.5. It is stated that the house would be for long-term rental.

3.0 **Planning Authority Decision**

- 3.1. **Decision** – To Grant permission subject to a single (archaeological) condition.

In coming to its decision, the Planning Authority had regard to the location within a residential area and ACA, and considered that the proposed development, involving the bringing back into use a semi-derelict house, would not be prejudicial to residential amenity and would enhance the character and appearance of the ACA.

Additional Information

- 1. A Shadow Study is submitted and concludes that daylight on neighbouring properties will not be affected by the proposed development, due to the separation distance and the higher elevation of Mandeville Terrace. There is little additional impact of overshadowing on Mandeville Terrace due to the orientation of the proposed development.
- 2. Detailed materials specification and drawings are submitted.
- 3. Detailed schedule of proposed works is submitted.
- 4. Revised plans and elevations submitted showing retention of front door.
- 5. Revised ground floor plan is submitted.

3.2. **Planning Authority Reports**

- 3.2.1. Planning Reports (09/05/2018 & 13/08/2018)

The first report, while generally favourable to the principle of the proposed development, recommends Further Information as follows:

- 1. Detailed full year shadow study of adjoining Mandeville Terrace
- 2. Revised elevational drawings and detailed specifications
- 3. Detailed schedule of proposed works

4. Amendment to retain the front door in its current position
5. Clarification of future use of the attic space
6. Clarification of internal ground floor plan

The second report concludes that the Further Information submitted is acceptable. The shadow study shows very minor impacts on the existing levels of ambient daylight enjoyed by adjacent occupiers. Taken in conjunction with the desirability to bring back into use a derelict house in this town location, the resultant improvement to the visual amenities of the area and the enhancement of the ACA, the proposal is acceptable and will not harm the amenities of nearby occupiers.

3.2.2. Other Technical Reports:

Conservation Officer – Having reviewed the Further Information there is no objection subject to condition.

Area Engineer – The principle of a modified house is acceptable. Only concern relates to allowing access for cars.

Archaeologist – recommends permission subject to an archaeological condition.

3.3. Observations

Objection -on behalf of the residents of 1, 2 and 3 Mandeville Terrace.

1. It appears that the applicants are trying to create two houses in lieu of the existing house.
2. The proposal is for a major intensification on a confined site, and located at a very busy junction. Two cars exiting on to the street would create a traffic hazard.
3. The proposal is out of character with the area and is overdevelopment.
4. It is proposed to exit from the property on to the pathway leading up to the Abbey Cemetery. Objectors are not aware of consent for this.
5. Adverse effect on sunlight to existing houses on Mandeville Terrace. The right to light would be obstructed and reduced.

6. A previous application in 2005 was refused for a smaller development (Reference: 05/53013).

Response to objection – by way of unsolicited information.

1. There is no proposal to create 2 houses.
2. The existing property has 2 garages with vehicular access on to the roadway on the front boundary. The proposal would improve the current situation with improved sightlines.
3. The proposal supports the existing local character of this Conservation Area.
4. A proposed gate accessing from the public pedestrian laneway would provide for safe access to the property.
5. There would be little or no loss of access to light to Mandeville Terrace, which faces east.
6. The previous application was speculative and for outline permission. No details were given making proper assessment impossible.

4.0 Planning History

Ref: 05/53013 – outline permission refused on part of the site for replacement of disused garage with semi-detached house. Reason relates to overdevelopment. Refused by An Bord Pleanála under reference PL 65.212720 as the Board were not satisfied that the proposal would not have unacceptable impacts on the amenities of adjacent properties, traffic congestion and overdevelopment.

5.0 Policy Context

5.1. Development Plan

Kinsale Development Plan (2009-2015) indicates this site as part of an established residential zoning. The Plan seeks to protect, preserve and enhance development in existing residential areas and to support appropriate infill residential development.

Infill is acceptable in principle, providing careful consideration is given to design, privacy, overlooking, daylight/sunlight and aspect.

It is within a zone of archaeological interest and near to the medieval town walls. It is an objective to ensure that all proposed developments are carried out in a manner sympathetic to the special character of the area.

6.0 The Appeal

6.1. Grounds of Appeal

These are submitted on behalf of Colette Quirke, Sharron Austin and Liam Collins of 1, 2 and 3 Mandeville Terrace.

1. Cork County Council failed to take any of the objections made to them during the course of the application on board and granted permission for a major intensification of development on a confined site, subject to a single condition.
2. It appears that the applicants are trying to create 2 houses, in lieu of the existing house.
3. The location is at a very busy junction and on a narrow, congested road. Two cars exiting from the proposed garages would create a traffic hazard. It would be unsafe for children and the public in general.
4. The proposal represents overdevelopment and is out of character with the area. It would devalue property in the vicinity.
5. It is proposed to make an exit from the property out on to a pathway leading up to the Abbey Cemetery. The appellants are not aware of any consent for this,
6. A smaller development than this was refused in 2005 (Ref: 05/53013).
7. The proposed development would detract from the amenity of this area and lead to increased car parking on the public street.
8. No financial contribution has been sought unlike other permissions granted in the area.

6.2. Applicant Response

1. It is not proposed to create 2 houses.
2. The existing property has 2 garages. The proposal to open these up with one large opening, together with improved sightlines, would provide for easier and safer access.
3. Finishes are proposed that will match in type, colour and texture the existing local character of the Conservation Area. Sash & case style windows are proposed. Detailed information was submitted to the Planning Authority by way of Further Information in respect of slates, joinery, rainwater goods, wall finishes. Original stone walls will be retained and repaired.
4. There would be very little or no loss of access to light to the front of Mandeville Terrace (which faces east). A shadow study was prepared as requested in Further Information and concludes that the proposed development complies fully with the requirements of "Site layout planning for daylight and sunlight – a guide to good practice. Second Edition", 2011, by Paul J Littlefair. The proposal will rejuvenate a neglected building while maintaining the character of the area and adding positively to this corner of Kinsale.
5. The front door will be maintained as required by the Conservation Officer. However, an alternative pedestrian access is still proposed via a new gate within the existing stone boundary wall on the southern boundary of the property. This will substantially improve and provide for safe pedestrian access rather than the front door which has no footpath adjoining. There is an existing built up gate opening within the existing boundary wall close to the position of the proposed timber lined gate access and also an existing gate access on the opposite side of the public laneway.
6. The previous application was purely speculative and for outline permission. It was not possible for the Planning Authority or An Bord Pleanála to fully assess the application.

7. The proposed extension is under the threshold for development contributions.

6.3. **Planning Authority Response**

None on file

6.4. **Observations**

None on file

7.0 **Assessment**

7.1. The proposal is for the refurbishment, alterations and extension of an existing vacant and disused two storey house and two adjoining garages. The site is close to the centre of Knsale town in an area of established residential use and within an Architectural Conservation Area. In principle, I can see no planning objection to the principle of refurbishing this vacant and run-down premises subject to the development respecting the character of the area and the amenities of existing residential property in the vicinity. In terms of design I consider that the proposed development respects the historic character of the area.

7.2. I submit that the key issues are as follows:

- Nature and scale of the development
- Overlooking and daylight and overshadowing
- Traffic and public safety
- Pedestrian access to adjoining laneway

7.3. The proposal is for a single residential unit as clearly stated in the application documents and the grounds of appeal. The appellants argue that it is proposed to create two residential units but this is rejected by the First Party. This is a matter which can be clarified by way of condition in any permission granted. In addition, any intensification to 2 residential units would require planning permission and a full assessment in the context of the proper planning and sustainable development of the area. I consider that the nature and scale of development as proposed respects the character of this established residential area and is acceptable in principle.

- 7.4. There is a small garden area to the rear of the existing premises and this, in turn, adjoins Mandeville Terrace. The proposal would incorporate two new 1st floor bedroom windows above the existing garages and four new rooflights serving the attic storage space. These would face westwards at an angle to the end house on Mandeville Terrace. Having regard to the separation distance, the orientation of the appeal premises relative to Mandeville Terrace and the stated non-residential use of the attic space I consider that no significant overlooking would arise. In terms of daylight and overshadowing the First Party submitted a 'Shadow Study'. This concludes that daylight on neighbouring properties would not be affected by the proposed development due to the separation distance to Mandeville Terrace and the higher elevation of the Terrace relative to the appeal premises. The Study shows a minor increase in overshadowing to the front of two properties on Mandeville Terrace at 8am and 9am on March 21st. I consider that the benefits of the proposed development to the wider area should be considered against this minor impact on existing residential property at Mandeville Terrace, and I conclude that the benefits would significantly outweigh the minor impact on amenity identified.
- 7.5. There are two existing garages on the site fronting directly on to Friar's Gate. There is no footpath along this section and the public road, while within the built-up area, is narrow with a steady flow of traffic. The existing garage doors appear in a poor state and may not have been used for some time. It is proposed to remove these and create one new single opening. The Planning Authority's planners report notes that the local engineer "has no comments". In assessing this aspect of the proposed development, it is recognised that the garages exist and could be used as such. In such circumstances, I conclude that the redevelopment of this premises as a single dwelling unit should not give rise to an intensification of use of the garages over and above the level of use which could currently be carried out.
- 7.6. It is proposed to create a pedestrian opening on to the adjoining laneway to facilitate the proposed development. I see no planning objection to this aspect of the proposed development. The appellants have queried the legal right to create such an opening. In this regard, I refer the Board to section 34(13) of the Planning and Development Act 2000, as amended, whereby development cannot be carried out by virtue of a permission alone. Final jurisdiction on legal issues of this nature would be a matter for resolution in the Courts.

7.7. In response to a request by the Board for observations, the Department of Culture, Heritage and the Gaeltacht recommend that, in the event of permission being granted, the wording of condition 1 of the planning authority's decision be retained to ensure that the archaeological requirements are fully understood. I see no objection to a condition of this nature.

7.8. **Environmental Impact Assessment**

The development does not constitute a class of development for which an EIAR is required.

7.9. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, the proposed development individually or in combination with other plans or projects would not give rise to any adverse impacts on the qualifying interests or conservation objectives on any European site.

8.0 **Recommendation**

8.1. I recommend that planning permission be granted subject to conditions below.

9.0 **Reasons and Considerations**

Having regard to the nature, scale, design and orientation of the proposed development, the established residential character in the vicinity and the separation distance to adjacent residential property on Mandeville Terrace, the existence of two garages on the site and to the provisions of the Development Plan for Kinsale including the designation of this area as an Architectural Conservation Area, it is considered that the proposed development would enhance the overall character of the area, would not have undue impact on residential property in the vicinity, would be acceptable in terms of traffic safety and would be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1. The development shall be carried out in accordance with the plans and

particulars submitted to the planning authority on 16th March 2018, as amended by the submission of Further Information on 16th July 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 developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features that may exist on the site. In this regard the developer shall:
 - (a) notify the planning authority in writing at least 4 weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works

In the event that archaeological material is found during the course of monitoring, the archaeologist shall stop work on the site immediately and notify the Local Authority and the National Monuments Service. Work shall not recommence until such time as advised by the Local Authority in regard to any necessary mitigation measures and the timescale for their implementation.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to the commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains found.

3. The entire premises shall be used as a single dwelling unit.

Reason: In the interest of clarity.

. Des Johnson
Planning Inspector

06 December 2018