



An  
Bord  
Pleanála

## Inspector's Report ABP-302500-18.

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<b>Development</b>	Demolition of cottage, construction of house.
<b>Location</b>	Ballynacarra West, Midleton, County Cork.
<b>Planning Authority</b>	Cork County Council.
<b>Planning Authority Reg. Ref.</b>	18/5126.
<b>Applicants</b>	Damien and Kathleen Behan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Martina O'Brien.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	2 <sup>nd</sup> December 2018.
<b>Inspector</b>	Philip Davis.

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## 1.0 Introduction

This appeal is against the decision of the planning authority to grant permission for the demolition of one of a pair of early 20<sup>th</sup> Century cottages in a rural area south of Midleton, County Cork, and its replacement with a new detached dwelling in what is now the garden. The cottage is currently empty. The decision is appealed by the owner of the adjoining cottage, on the grounds of amenity and disturbance.

## 2.0 Site Location and Description

### 2.1. Ballynacorra West

Ballynacorra (sometimes Ballynacarra) West townland is located just under 3 km directly south of the town of Midleton in County Cork, about half that distance south from Ballynacorra village, and just east of the estuary of the Ballynacorra River. The general area is open countryside, but there are a series of somewhat haphazard residential and commercial developments stretching south along the R630 from Midleton and Ballynacorra village and clusters of residential development on minor roads. The appeal site is located on a minor road running east of the R630 where there is a small cluster of dwellings and one commercial operation (a car breakers yard).

### 2.2. The site

The appeal site is a long narrow house site on the northern side of the third class road (the L2629), occupied by an empty single storey cottage, one of a terraced pair – the other being on the western side. The cottage has a floorspace given as 64 square metres and appears to date from around the start of the 20<sup>th</sup> Century. The site in total is approximately 22 metres long.

On the **eastern** side of the site is a detached dwelling on a smaller site, with beyond this a large site occupied by the car dismantling operation. There are open fields beyond this. To the **west** is the matching cottage, which has an extension to one side, but is on a somewhat smaller plot. There are three more cottages along the

next 150 metres or so of road, with a field extending around 150 metres before the junction with the R630.

**North** of the site are open fields on gradually dropping levels, with a dwelling to the north-east, accessed via a driveway next to the adjoining cottage. On the **southern** side is a minor third class road without footpath. There are 9 dwellings in a row on the opposite side of the road, with open fields rising to a prominent ridge beyond this.

### 3.0 Proposed Development

The proposed development is described on the site notice as :

*The demolition of an existing 2 bedroom cottage, construction of new vehicular entrance off the public road, construction of new storey and a half dwelling with wastewater treatment system, percolation area and all associated site development works.*

### 4.0 Planning Authority Decision

#### 4.1. Decision

The planning authority decided to grant permission subject to 18 generally standard conditions.

#### 4.2. Planning Authority Reports

##### 4.2.1. Planning Reports

- Requirement for Appropriate Assessment screened out due to the lack of any physical or hydrological connection between the development site and any European site.
- Notes Section 4.8 of the CDP as relevant – policy on replacement rural dwellings and refurbishment of derelict dwellings.
- Notes no objection from internal or external consultants.

- Notes an objection by the neighbour and verbal representations from a local Councillor.
- It is concluded that it is consistent with policy to permit such a replacement dwelling.
- Notes the wastewater treatment system is considered acceptable.
- Water supply is from the public mains.
- Permission is recommended.

#### 4.2.2. Other Technical Reports

A method statement relating to the demolition of the property was submitted with the, application, in addition to a design statement.

#### 4.3. **Prescribed Bodies**

None on file.

#### 4.4. **Third Party Observations**

The adjoining neighbour objected to the proposed development.

### 5.0 **Planning History**

None associated with the appeal site. **07/8072** was a grant of permission for a side sunroom extension to the adjoining dwelling to the west.

### 6.0 **Policy Context**

#### 6.1. **Development Plan**

The site is in an area of open countryside without a specific zoning designation. The planning authority consider section 4.8 the relevant policy – this applies to the redevelopment of existing sites.

## 6.2. **Natural Heritage Designations**

There are no designated sites on or adjoining the appeal site. The Cork Harbour SPA site code 004030 and the Great Island Channel SAC site code 001058 are approximately 1 km to the west – both cover much of the mud flats, marshes and tidal grasslands of the estuary.

## 7.0 **The Appeal**

### 7.1. **Grounds of Appeal**

- Strong concerns are expressed that the proposed works would damage her home (the adjoining cottage to the west). Photos are attached in support of this argument.
- States that she does not give legal authority for any works to her property.
- Expresses concern at the potential for damage to her property.
- Notes that both dwellings were designed and built at the same time.

### 7.2. **Applicant Response**

No response received.

### 7.3. **Planning Authority Response**

The planning authority did not respond to the grounds of appeal.

## 8.0 **Assessment**

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following general headings:

- Principle of development
- Amenity
- Traffic
- Public health

- Cultural heritage
- Flooding
- EIAR
- Appropriate Assessment
- Other issues

### 8.1. Principle of Development

The site is in a cluster of dwellings in a rural area, with a long established dwelling on the site – apparently an early 20<sup>th</sup> Century Council house. Policy in regard to such replacement dwellings in rural areas is as follows (Section 4.8):

*In circumstances involving the replacement of an existing habitable dwelling, the Planning Authority will consider proposals for the replacement or refurbishment of such a house on a case by case basis having regard to the requirements of other relevant policies and objectives in this plan and subject to normal planning considerations. The definition of what constitutes a house will be as described in planning legislation.*

In this regard, I would consider that the proposed development should be assessed on its own merits.

I note that the works involve alterations to the party wall of the appellants property – in effect making the party wall an exposed side gable – in this regard I note the provisions of S.34(13) of the 2000 Act, as amended. Any legal agreements between the applicant and appellant for works to the party wall and other parts of the appellants property are a civil matter for the parties and outside the scope of a planning application.

### 8.2. Amenity

The cottage on the site is part of an attractive modest pair of cottages, probably the first dwellings to be constructed along this stretch of road. The immediate area has subsequently developed at an almost suburban density, with dwellings on either side, and one at an angle to the rear, possibly on lands part of the original ‘acre’ used for the development. The cottages are very small, and the design statement submitted with the applicant indicates that it is not considered suitable for a family

home. It is certainly true that at around 65 square metres it is small and the scope to extend it without significantly encroaching on the adjoining properties is limited. I also note the lack of space for parking due to the frontage close to the road.

The proposed dwelling is to be set well back from the adjoining dwelling near the centre of the site. It would be more or less at the same front and back building line of the dwelling built to the rear of the 'front' building line. In general development this side of the road is haphazard and so I would consider this to be broadly in line with the pattern of development, such as it is. From the information submitted, there would seem to be relatively little direct amenity impacts on the adjoining neighbours by way of overlooking or overshadowing.

In visual terms, the proposed dwelling would be largely screened by developments on each side. I would note that removing the attractive cottage and replacing it with a gate would be a significant loss of visual amenities for the area.

The appellant has expressed strong concerns about the impact on her cottage. Her concerns are entirely understandable and reasonable but the issue of party wall works and damage to the structure is a civil matter between the parties and not directly relevant to a planning application. I would note that it is important for visual amenities that the exposed gable wall be appropriately finished – I would recommend a condition to this end.

### **8.3. Traffic**

The proposed development is of a larger size than the existing (albeit long vacant) dwelling so may increase traffic to the area, but as it is a replacement dwelling I do not consider this to be a ground for refusal. The proposed new access has adequate sight lines and is otherwise acceptable.

### **8.4. Public health**

The cottage would seem to be served by an existing, probably very out of date septic tank. It is proposed to replace it with a modern wastewater treatment system. The area is served by the public water supply.

While the area appears to be generally well drained, I would have very strong concerns about the density of such wastewater treatment systems in this area. Notwithstanding this, as it is replacing an existing system I would consider that this is not a reason for refusal.



### 8.5. **Cultural heritage**

The cottage is attractive and appears to be at least 100 years old. It is not a protected structure and it is not recorded on the NIAH. There are no relevant policies for such dwellings. There are no indications of recorded ancient monuments or other historic features in the area.

### 8.6. **Flooding**

The area is generally low lying and close to the Cork Harbour estuary and all local watercourses appear to drain to the estuary. The available flood maps indicate a watercourse/drain to the north and a watercourse subject to flooding to the west, along the main road. The site itself has no records of flood and I do not consider that the proposed works would have a significant impact on general run-off in the area as it is a replacement structure.

### 8.7. **Appropriate Assessment**

The appeal site is approximately 1 km west of the Cork Harbour Estuary, which is designated both SAC and SPA for its value for habitats associated with tidal mudflats and related avian life. The two designated sites are the Cork Harbour SPA site code 004030 and the Great Island Channel SAC site code 001058 - both designated areas cover much of the mudflats and tidal grasslands of the estuary. Their boundaries generally end at the high tide mark.

The planning authority carried out an Appropriate Assessment Screening and considered that it would not have a significant effect on those or other designated sites. Having regard to the nature and small scale of the works, in particular the fact that it is a replacement of a long established dwelling, I would concur with this conclusion.

I therefore consider it reasonable to conclude 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 SPA site code 004030 or SAC site code 001058, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

### 8.8. **EIAR**

Having regard to nature of the development comprising a relatively minor works within an established developed site, 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.

#### **8.9. Other issues**

I do not consider that there are any other substantive issues raised in this appeal. The proposed development requires a development contribution under the adopted Scheme but no other development contribution or bond was required by the planning authority.

#### **9.0 Recommendation**

I recommend that, subject to the conditions set out in the schedule below, the proposed development should be granted planning permission for the following reasons and considerations.

#### **10.0 Reasons and Considerations**

The proposed development is on a long established residential site within a cluster of rural dwellings. It is accepted that the existing cottage on site is not suitable for restoration for family use due to its small size and orientation. It is therefore considered that subject to the conditions set out below the proposed demolition of the cottage and construction of a new dwelling would not seriously injure the residential amenities of the area and would otherwise be in accordance with the proper planning and sustainable development of 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 the 4<sup>th</sup> day of May 2018, and the 29<sup>th</sup> day of June 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. Prior to the commencement of development, details of the finish treatment to the exposed gable wall of the adjoining cottage property shall be submitted for the written approval of the planning authority.

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

3. The proposed front boundary wall and entrance shall consist of natural local stone, the exact height and location of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. The roof colour of the proposed house shall be blue-black, 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.

5. The external walls shall be finished in neutral colours such as grey or off-white.

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

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

7. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water

from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

**Reason:** In the interest of traffic safety and to prevent pollution.

8. The proposed wastewater treatment 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.

9. 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.

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.

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Philip Davis  
Planning Inspector

3<sup>rd</sup> December 2018