



An  
Bord  
Pleanála

## Inspector's Report 302523-18.

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<b>Development</b>	Construction of a house, detached garage and all associated site works.
<b>Location</b>	Coolflugh, Tower, County Cork
<b>Planning Authority</b>	Cork County Council.
<b>Planning Authority Reg. Ref.</b>	184086.
<b>Applicant</b>	Ursula O'Sullivan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refusal of permission.
<b>Type of Appeal</b>	First Party.
<b>Appellant</b>	Ursula O'Sullivan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	22 <sup>nd</sup> November 2018.
<b>Inspector</b>	Derek Daly.

## 1.0 Site Location and Description

- 1.1. The proposed site is located at the eastern fringe of the village of Tower. The site immediately adjoins Tower Bridge which is located at the southeastern corner of the site. The southern boundary is defined by a public road running south eastwards from the centre of the village and the site is located along the inner curve of a section of this road. To the north and west are established residential areas with the northern boundary of the appeal site adjoining public open space associated with a residential area and there is a recently constructed detached dwelling to the west. To the east of the site is a strip of land adjoining the River Shournagh and site does not extend to river bank. On the opposite southern side of the public road is Muskerry Golf Course.
- 1.2. The site itself is largely low lying and generally undulating rough terrain in the eastern section of the site and at a lower level than adjoining lands to the north and west. There is a very defined difference in level with the lands to the north and west with a small escarpment in the section of the site adjoining these boundaries.
- 1.3. The site has a stated area of 0.10 hectares.

## 2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority on the 16<sup>th</sup> of January 2018 was for a dwelling with a stated floor area of 310.57m<sup>2</sup> located in the northern area of the site and a detached garage with a stated floor area of 48.28m<sup>2</sup> in the western area of the site. The proposed access to the site is located towards the south eastern section of the road frontage.
- 2.2. The proposed dwelling is a two storied dwelling with a part mezzanine level and is of a contemporary design and construction incorporating a part mono pitch and part flat roof design with variations in overall height dictated by the breaking up of the overall mass of the dwelling and the nature of the design. The external finishes are a mix of plaster and larch cladding and slates are proposed for the pitched sections of roof. The design also provides for balconies on the south eastern elevation.
- 2.3. The garage is detached and has a mono pitch roof.
- 2.4. It is proposed to connect to the public watermains, public sewer and public stormwater drainage system.

- 2.5. A traffic appraisal and assessment in relation achieving the necessary sightline visibility at the proposed entrance to the site.
- 2.6. Further information was submitted on the 20<sup>th</sup> of July 2018 which included;
- Clarification in relation sightline visibility.
  - Additional floor area plans.
  - Clarification in relation to the provision of private open space on the site.
  - A drawing indicating that the proposed development does not encroach on the proposed public walkway.
  - Landscaping details indicating how the proposed development will integrate into the area.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The decision of the planning authority was to refuse planning permission. Two reasons were stated. The first reason refers to the restricted nature of the site and that the development would constitute over development of the site with reference to objective ZU 3-2 of the Cork County Development Plan 2014.

The second reason for refusal refers to the provisions of the Blarney Macroom Municipal Local Area Plan and the protection of the setting of the river and to provide for open space including the provision of an amenity area and a pedestrian walk along the river bank and would contravene objectives O-02, O-03 and U-02 of the Blarney Macroom Municipal Local Area Plan.

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

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

The planning report dated the 5<sup>th</sup> of March 2018 refers to

- The planning history.
- Submissions received.

- An assessment of the issues including principle of the development and policy and it is considered that there is no objection in principle to the development;
- The issue of design and layout and the issue of visually prominence is referred to.
- The issue of whether the proposed development would encroach onto a proposed public walkway along the river and that clarification was required in relation to this
- Traffic and the issue of sightline visibility.
- The relationship of the proposed development and Tower Bridge.

Further information was recommended.

The planning report the 14<sup>th</sup> of August 2018 addresses the further information submitted and indicates that concerns remain in relation to the provision of private open space; that the provision of the riverside walk is considered to be vital and strategic in terms of the area and it is necessary to preserve a corridor to provide this, that there is an absence of details in relation to screening of the development when viewed from the south and concerns remain in relation to the impact on Tower Bridge. Refusal of permission was recommended.

### 3.2.2. Other Technical Reports:

Area Engineer Report dated 9<sup>th</sup> of February 2018 required clarification in relation to sightline visibility. A further report dated the 9<sup>th</sup> of August 2018 restates concerns in relation sightline visibility.

County Archaeologist report dated the 7<sup>th</sup> of March 2018 considered that the proposed development would not impact directly on the bridge but raised concern in relation to visual impact on the bridge and the necessity that the road boundary should be in keeping and respect the character of the bridge wall boundary.

Irish water in a submission dated the 13<sup>th</sup> of February 2018 indicate no objection to the proposed development.

## 4.0 Planning History

There is history of applications relating to the site and immediate area.

P.A. Ref. No.05/3838

Permission granted for the demolition of a derelict structure and the construction of two dwelling houses on the appeal site.

Permission was granted for a dwelling on the adjoining lands to west for a dwelling under P.A. Ref. No 13/5355.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. Cork County Development Plan 2014-2020.

5.1.2. Chapter 3 refers to Housing and sections 3.3.4 to 3.3.11 specifically refer to urban design and to the provision of quality design for residential development. Objective HOU 3-2 relates to urban design and to ensure that all new urban development is of a high design quality and supports the achievement of successful urban spaces and sustainable communities.

5.1.3. Chapter 14 relates to Land Use and Zoning

Relevant provisions;

ZU 2-2: Development Boundaries

*For any settlement, it is a general objective to locate new development within the development boundary, identified in the relevant Local Area Plan that defines the extent to which the settlement may grow during the lifetime of the plan.*

In relation to Existing Built Up Areas, section 14.3.2 refers to, *Within the development boundaries of the main towns, in areas that are not subject to specific zoning objectives, proposals for development will be considered in relation to the following:*

- *The objectives of this plan;*
- *Any general or other relevant objectives of the relevant local area plan;*
- *The character of the surrounding area; and*

- *Other planning and sustainable development considerations considered relevant to the proposal or its surroundings.*

Objective ZU 3-1 has in relation to Existing Built Up Areas;

*Normally encourage through the Local Area Plan's development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built up areas will be resisted.*

Objective ZU 3-2 in relation to Appropriate Uses in Residential Areas

*a) Promote development mainly for housing, associated open space, community uses and, only where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area.*

*b) Normally discourage the expansion or intensification of existing uses that are incompatible with residential amenity.*

## 5.2. Blarney Macroom Local Area Plan 2017.

The site is located within the development area boundary of the village of Tower and is not zoned with any particular objective. Tower is identified as a key village in the settlement strategy and the Local Area Plan.

Objective DB-01 provides for an additional 182 dwelling units within the plan period within the development area boundary.

In relation to Open Space Sports, Recreation and Amenity there are objectives specific to the river including;

*Objective O-02 Open Space for informal public recreation including the provision of an amenity area and pedestrian walk along the river bank*

*O-03 Open Space Protect the setting of the river*

In relation to Utilities and Infrastructure

Objective U-02 refers to

*Circular pedestrian route through open space, residential areas and along river bank*

These objectives are indicated on the map associated with the plan for the village.

Tower Bridge to the southeast of the site is a protected structure.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant c/o RPS in a submission dated the 7<sup>th</sup> of September 2018 refers to;

- The site was historically a residential site and formed part of a cluster of development around Tower Bridge railway station and a photograph of the previous dwelling located on the site which was demolished in 2005 is submitted.
- The current proposal is to reinstate a pre-existing dwelling on the site.
- Reference is made to the current Blarney Macroom LAP and that the site is within the existing built up area.
- The walkway along the river which is referred to as Objective U-02 follows the old railway line route and runs along the western boundary of the site.
- The site does not infringe either onto the old railway line or the open space forming the areas of objectives O-03 and O-02.
- In relation to the first stated reason for refusal the proposed development presents no conflict with the details or spirit of ZU 3-2 which provides guidance for situations in which a non-residential use is proposed within a residential area and the proposed development is for a dwelling within an existing built up residential area.
- The use is compatible with the residential area and the planning report refers to the proposed development as compatible with the established use of the surrounding area.
- Reference is made to Objective ZU 3-1 and paragraphs 14.3.1 to 14.3.6 of the current CPD which refer to existing built up areas and the development is compatible with these provisions of the plan.
- There is no reference to the historic residential use of the site and that permission was granted in 2005 for residential development on the site.
- There is no adverse impact on existing properties in the area and no objections were received in relation to the proposed development.

- It is not accepted that the development represents overdevelopment or excessive, does not impact on adjoining properties and was designed to provide for high visual absorption.
- In relation to second reason for refusal, it is clear from the zoning mapping that the line of walkway follows the old railway line and does not denote a corridor as suggested in the planning report.
- The former rail alignment between the site and the river is of sufficient width to accommodate such a pathway/walkway and a photomontage indicating how it can be achieved is submitted.
- The proposed development equally does not conflict with the achievement of objectives O-02 and O-03.
- The appellant purchased the site two years ago and the local authority could have acquired the site for the fulfilment of objectives of the plan but did not do so.

## 7.0 Assessment

7.1. In relation to the appeal there are a number of issues which arise in the assessment of this appeal which include the principle of the development and matters specific to the site including siting and design; the issue of the protection of a riverside walk which is a stated objective in the LAP and traffic.

7.2. Principle of the development.

In section 5 of the report the relevant provisions of the CPD and LAP which relate to this appeal are outlined.

The site is located within the development area boundary of the village. The site has no specific zoning objective but section 14.3.2 of the CDP permits consideration of development in such instances subject to criteria outlined including the objectives of both the CDP and LAP plan objectives, the character of the surrounding area and other planning and sustainable development considerations considered relevant to the proposal or its surroundings.



I note that in the first reason for refusal reference is made to objective ZU 3-2 of the CPD which refers to appropriate uses in residential areas and which promotes development mainly for housing, associated open space, community uses and, only where an acceptable standard of amenity can be maintained and normally discourages the expansion or intensification of existing uses that are incompatible with residential amenity.

In the grounds of appeal the appellant refers to the appeal site as historically a residential site and which formed part of a cluster of development around Tower Bridge railway station and a photograph of the previous dwelling located on the site which was demolished in 2005 is submitted as proof of this. The current proposal it is contended is to reinstate a pre-existing dwelling on the site and it also indicated that permission was granted in 2005 for residential development on the site. The site is also within the existing built up area.

Specifically, in relation to ZU 3-2, the proposed development presents no conflict with the details or spirit of ZU 3-2 which provides guidance for situations in which a non-residential use is proposed within a residential area, the use is compatible with the residential area and the planning report refers to the proposed development as compatible with the established use of the surrounding area and also compatible with Objective ZU 3-1 and paragraphs 14.3.1 to 14.3.6 of the current CPD which refer to existing built up areas.

In considering the issue of the principle of the development I would hold the view that the site is within the LAP development boundary; it is located within an area which is predominantly residential; the proposed use is residential; there are in the immediate area similar detached residential properties and there is clear evidence that the site formerly and historically had a dwelling unit on the site. In the overall context of the stated provisions of both the CDP and the LAP I consider that the principle of the development which is for a residential unit on the site is reasonable.

- 7.3. Site specific matters.
- 7.4. The matters specific to the site which I consider require consideration are siting and design; the issue of the protection of a riverside walk which is a stated objective in the LAP, Tower Bridge and traffic.
- 7.5. Siting and design.

- 7.6. The proposed dwelling is for a dwelling with a stated floor area of 310.57m<sup>2</sup> located in the northern area of the site. There is also a detached garage with a stated floor area of 48.28m<sup>2</sup> in the western area of the site.

The dwelling is a large two storied dwelling with a part mezzanine level incorporating a part mono pitch and part flat roof design with variations in overall height dictated by the breaking up of the overall mass of the dwelling and the nature of the design. The external finishes are a mix of plaster and larch cladding and slates are proposed for the pitched sections of the roof. The design also provides for balconies on the south eastern elevation.

The proposal is of a contemporary design and construction which has been designed to take into consideration the contours of the site. In relation to the design itself I would have no objection to the overall concept with although large is scale is broken up into different elements which has varied roof ridge heights varying from 3612mm, to 6657mm with one section having a height of 9337mm.

The dwelling will not be overtly viewed in the approach from the village and will be most visible in the approach from the east, but this viewpoint has a backdrop of the higher lands to the north and northwest. I do not therefore consider that the dwelling will be visually obtrusive in the context of the site and area and subject to appropriate screening and landscaping will integrate into its surroundings.

In relation to the issue of overdevelopment as stated in the first reason for refusal the site has open space areas to the rear and sides of the dwelling which in the context of a serviced built up area although not overly generous is reasonable in the context of a built up area and a site with available public services within the development boundary of the village.

I would also note that there are other detached houses in the area including a dwelling at a higher contour to the west and the development is not, I consider, inconsistent with the pattern of development in the area.

- 7.7. Riverside walk and impact on public amenities.
- 7.7.1. The second reason for refusal refers to provisions of the Blarney Macroom LAP and in particular objectives O-O2, O-03 and U-02. Objectives O-02 and O-03 outline specific areas of open space adjoining the river for informal public recreation including the provision of an amenity area and pedestrian walk along the river bank

and for protecting the setting of the river. These objectives are outlined on the map accompanying the plan for the village. The site is not located within these zoning objectives but immediately adjoins the zonings which follows the course of the river Shournagh. Other residential areas also adjoin these zonings. The site does not encroach into the zonings but the provision of an amenity area and in particular protecting the pedestrian walk requires to be considered.

- 7.7.2. There is a specific objective U-02 which provides for a circular pedestrian route through open space, residential areas and along river bank. This route is indicated on the map and would equate to an indicative route/corridor.
- 7.7.3. The second reason for refusal refers to encroachment onto the amenity area and in the grounds of appeal, it is contended that the walkway along the river which is referred to as Objective U-02 follows the old railway line route and runs along the western boundary of the site and that the appeal site does not infringe either onto the old railway line or the open space forming the areas of objectives O-03 and O-02.

It is also contended that it is clear from the zoning mapping that the line of the walkway follows the old railway line and does not denote a corridor as suggested in the planning report and that the former rail alignment between the site and the river is of sufficient width to accommodate such a pathway/walkway and a photomontage indicating how it can be achieved is submitted. The appellant contends that the proposed development equally does not conflict with the achievement of objectives O-02 and O-03.

- 7.7.4. In relation to the proposed walkway along the river no clear demarcation of the route can be identified from an examination of the map associated with the LAP and the boundary is difficult to determine.

From my inspection of the site I note that there is no site boundary where the site adjoins the river, but the drawings submitted indicate that the site does not extend to the river bank.

I also note that at the actual bridge there is a clear arch for the river channel and an arch adjoining the northern bank which would identify a historic line of passage and which I understand accommodated, based on old O.S maps accommodated, a railway line. Based on the information submitted and my observations during the site inspection it would appear that there are sufficient lands available to accommodate

the provision of a pedestrian route and provide for the stated objectives of the LAP. It may be necessary to provide a condition in relation to the boundary treatment along the common boundary with provision for a boundary to permit site accommodation works to facilitate the provision of the pathway when it is constructed.

#### 7.8. Tower Bridge

The site adjoins Tower Bridge a protected structure and I note the report of the county archaeologist which considered that the proposed development would not impact directly on the bridge but raised concern in relation to visual impact on the bridge and the necessity that the road boundary should be in keeping and respect the character of the bridge wall boundary. I would agree with the report and a condition to reflect this should be included in a grant of permission.

#### 7.9. Traffic.

- 7.9.1. Traffic is not stated in the grounds of appeal, but the issue of traffic safety arose in the assessment of the planning application. The proposed access to the site is located towards the south eastern section of the road frontage along the inner curve of the existing road. The road is within the 50 kph speed limit area.
- 7.9.2. A traffic appraisal and assessment in relation achieving the necessary sightline visibility at the proposed entrance to the site was initially submitted and in the further information which was submitted on the 20<sup>th</sup> of July 2018 further clarification in relation sightline visibility was submitted.
- 7.9.3. I note that the initial Area Engineer Report dated 9<sup>th</sup> of February 2018 required clarification in relation to sightline visibility and that the subsequent report dated the 9<sup>th</sup> of August 2018 restates concerns in relation sightline visibility.
- 7.9.4. There is no issue in relation to the provision of sightline visibility to the east. The horizontal and vertical alignment of the road to the west does present some level of restriction in a westerly direction but based on the detail submitted a sightline of 45 to 50 metres is indicated. Given the nature and alignment of the road I consider that the level of sightline proposed are acceptable in relation to traffic safety.

#### 7.10. Other matters

- 7.10.1. Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### 7.10.2. EIAR Screening Determination

Based on a preliminary examination of the nature, size or location of the development there is no real likelihood of significant effects on the environment and EIA is not required.

### 8.0 Recommendation

8.1. I recommend that permission be granted.

### 9.0 Reasons and Considerations

9.1. Having regard to the planning history of the site, the established and permitted uses on the site and the pattern of development in the vicinity, and the provisions of the current Cork County Development Plan and the Blarney Macroom Municipal District Local Area Plan 2017 it is considered that the proposed development would not seriously injure the visual and residential amenities of the area and would generally be acceptable in terms of traffic safety and convenience. 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 plans and particulars submitted on the 20<sup>th</sup> day of 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings 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 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. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species

(ii) Details of roadside planting and boundary treatment which provide for a boundary in keeping and respecting the character of the adjoining bridge wall boundary

(b) A timescale for implementation

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

4. Details relating to precise location and nature of the proposed eastern boundary of the site adjoining the river shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The nature of the construction of this boundary shall facilitate any accommodation works necessary in the provision of the riverside walk adjoining the site

**Reason:** In the interest of visual amenity and to facilitate the securing of objectives as stated in the Blarney Macroom Municipal District Local Area Plan 2017.

5. 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.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

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 or lands.

(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. 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. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction

practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

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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. Derek Daly  
Planning Inspector  
. 5<sup>th</sup> November 2018