



An
Bord
Pleanála

Inspector's Report 302654-18

Development	Demolition of existing adjoining garage/workshop and construction of a two-storey granny flat and associated site works.
Location	1, Convent Lane, Church Hill, Passage West, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	18/5805.
Applicant(s)	Ricky Higgins.
Type of Application	Permission.
Planning Authority Decision	Grant of permission with conditions
Type of Appeal	3 rd Party v Grant of Permission.
Appellant(s)	Shane O'Sullivan.
Observer(s)	Oliver Mehigan.
Date of Site Inspection	16 December 2018.
Inspector	Des Johnson.

1.0 Site Location and Description

- 1.1. The site is located on the north side of Church Hill, a short distance to the west of Back Street and adjacent to St Mary's Church of Ireland and St Mary's Catholic Church in Passage West. It is at the corner of Church Hill and Convent Lane, which is a short cul de sac of terraced houses fronting eastwards.
- 1.2. Church Hill slopes from west to east past the appeal premises. There are footpaths either side of the carriageway and public lighting on the north side of the carriageway. There are few obvious road markings along this stretch.
- 1.3. There is a single storey garage structure on the site. It would appear that this may have originally had a pitched roof with a ridge height lower than the adjoining terraced dwelling to the north. At the time of inspection, a van was parked on the footpath on the southern side of the garage structure. It appears that this area may originally have formed part of the footpath but is now partly railed off and shown as part of the appeal site. To the rear of the site is an open grassed area bounded by low wall and fencing. There is a wooden hut on this area of ground.
- 1.4. Convent Lane is narrow with terraced houses fronting onto the laneway with very narrow walled off garden areas between the houses and the carriageway. A couple of cars were parked on the opposite side of the laneway at the time of inspection. Adjoining the western site boundary is another short surfaced cul de sac serving several houses and a garage structure.
- 1.5. I attach photographs taken at the time of inspection.

2.0 Proposed Development

- 2.1. Demolition of adjoining garage/workshop and construction of two storey granny flat and associated site works.
- 2.2. The site area is stated to be 0.0172 hectares, the gross floor area of existing buildings is 41.33m² (to be demolished) and the gross floor area proposed is 112.36m².
- 2.3. It is proposed to connect to public sewer and mains water supply.

- 2.4. The submitted drawings date stamped 10 July 2018 include the existing car parking space adjoining the garage as part of the site. They also show the lands adjoining to the north (Nos 1 and 2 Convent Lane and the lands to the rear of these properties) outlined in blue and incorporating two additional car parking spaces. A further car parking space is shown within the appeal site to the rear.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 12 conditions.

Conditions:

Generally, the conditions refer to standard matters. Condition 2 requires a Section 47 agreement relating to the future occupation of the proposed accommodation for reason to protect the amenities of the area and to control the intensity of use on the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports (30.08.18)

Permission was recently refused for two development proposals on this site (Ref: 17/5188 & 16/71230). The site is within the settlement boundary for Passage West within a designated Town Centre zoning block; residential is acceptable in principle in this zoning block, subject to other sustainable development considerations.

It is standard practice to require a Section 47 agreement in relation to ancillary granny flat accommodation.

The subject site appears to have informally subsumed some of the existing footpath as a parking area. There is a prevalence of existing on-street parking on footpaths in the area. It is proposed to provide on-site turning space to the rear of the site.

There is some uncertainty as to the applicant's entitlement to use this roadway as a means of access.

The proportion of private open space exceeds minimum standards while allowing for adequate parking provision. The design approach is, on balance, acceptable. Previous overshadowing concerns have been addressed.

3.2.2. Other Technical Reports:

Area Engineer: Development can only proceed if the applicant has a right of way over the private lane to the rear. No objection from an engineering point of view subject to recommended conditions.

3.3. Observations

Shane O'Sullivan, 1, Maryville, Church Hill.

1. Overdevelopment of a restricted site previously refused permission.
2. A 'granny flat' would normally be a single level self-contained unit occupied by a family member. The use of the term 'granny flat' is questioned in this case.
3. This is an ACA. The proposed development would extend beyond the established building line to the rear of existing terraced dwellings.
4. Private amenity space proposed is inadequate.
5. The applicant does not have rights to access a private car parking area from a private road/right of way.
6. Previous reasons for refusal have not been addressed.
7. Injurious to residential amenities in the area.

Oliver Mehigan, 2, Church Hill, Passage West

1. Reasons for recent refusals on this site have not been addressed
2. Parking for 2 cars outside the objector's front door will give rise to health and safety concerns, depreciate the value of property and be injurious to residential amenity.
3. Refuted that the applicant has a right of way past the objector's front door.
4. The term "granny flat" is disputed.

5. Objector questions accessibility for emergency vehicles to the area if the proposed development is permitted.

4.0 Planning History

Ref: 17/5188: Permission refused for demolition of existing garage/workshop and construction of 2 storey semi-detached dwelling. Applicant: Ricky Higgins. Two reasons for refusal – (1) overdevelopment, traffic congestion, overshadowing and depreciation in the value of property, and (2) not demonstrated that a safe means of access can be achieved with adequate off-road parking facilities, traffic hazard.

Ref: 16/123: Permission refused for demolition of workshop/garage and construction of two storey semi-detached dwelling. Applicant: Ricky Higgins. Two reasons for refusal – (1) traffic hazard and (2) overdevelopment of a restricted site.

5.0 Policy Context

5.1. Development Plan

The site is within the development boundaries for Passage West. Zoned 'Town Centre'.

S. 7.12 – states that consideration can be given to building ancillary accommodation to an existing house or as a separate dwelling unit where it can be shown that such is required for a family member.

S. 7.13 – sets criteria to be met for granny flat type accommodation. This includes a requirement that the unit not be sold separately from the existing dwelling and a Section 47 agreement should be entered into.

The site is within Passage West Architectural Conservation Area. Objective 4.5 relates to ACAs promoting high quality design, respect for the character of the ACA, and promoting appropriate and sensitive reuse of buildings. Infill residential development – a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide the residential infill.

Sections 7.1 – 7.3 refer to *Daylight and Sunlight*. Overshadowing generally arises where buildings are of considerable height or where new buildings are located very close to adjoining buildings.

6.0 The Appeal

6.1. Grounds of Appeal

Shane O'Sullivan

1. The proposal is similar to previous proposals refused permission. It represents overdevelopment of a restricted site. Construction and excavation would have significant direct impacts on surrounding residents.
2. Traffic congestion and injury to the residential amenity of surrounding residents. Endangerment of public safety by reason of traffic hazard.
3. Right of way is disputed. The applicant does not own the land on which it is proposed to develop. Consent to apply for permission is not provided.
4. There is a lack of detail relating to the impact on the ACA. There is no definition or features along the Church Hill elevation.
5. There are no daylight and shadow projection diagrams provided. There would be direct overlooking of the objector's property.
6. Should the development be permitted there is no need for the excessive provision of 3 additional parking spaces for the proposed development.

This submission attached the two objections submitted to the Planning Authority.

6.2. Applicant Response

1. Applicants parents have consented to the application for permission.
2. No issue with access to rear sheds and garden space was ever brought up before by any neighbours. Even though lands were sold in 1980 but a right of way was retained.

3. The appeal site is to the east and lower than the appellants house. There would be no overshadowing.
4. The workshop/garage which it is proposed to demolish was originally a family cottage with a pitched roof replaced by a flat roof.
5. The applicant is a single parent with a 3 year old child and requires independent living space. The applicant has lived in this house all his life (28 years) and he wishes to remain living in the village.

6.3. **Planning Authority Response**

None on file

7.0 **Assessment**

- 7.1. The appeal site is within the development boundaries for Passage West. There is a garage type structure on part of the site and it would appear that this was formerly used as a residence. The existing structure is not of any architectural merit and does not contribute to the visual amenities or character of the area. The predominant character of development in this vicinity is residential together along with the two churches. I submit that it is reasonable to consider the proposed development as infill in an established area. In principle, I consider that residential use is acceptable subject to meeting other planning and public safety considerations.
- 7.2. The site is within an Architectural Conservation Area. I consider that the proposed design is generally satisfactory and would enhance the visual amenities and overall character of the area. The proposed elevation on to Church Hill could, however be improved through redesign particularly at first floor level.
- 7.3. The proposal is stated to be for a "granny flat" and the permission granted by the planning authority contains a condition requires that the ancillary accommodation be occupied by a member of the immediate family of the occupier of the main dwelling. It requires the applicant to enter into a Section 47 agreement. The proposed floor plans appear to show a single connection to the adjoining dwelling; this is a ground floor level and is an external connection. In the event of permission being granted I favour the imposition of a condition of this nature in order to control the intensity of

use on the site and the likely increase in traffic movements and demand for car parking in the immediate area.

7.4. The appellant argues that the proposed development would result in loss of amenity to his property to the west. While the proposal would include three windows at first floor level, these serve a bedroom and landing. Having regard to the separation of the proposed dwelling from existing property to the west and to the difference in ground levels I consider that no significant overlooking would arise. In terms of the protection of residential amenities of property in the vicinity I consider that the proposed development is acceptable.

7.5. I consider that key issues which remain to be resolved are as follows:

- Potential ambiguity between the advertised development and the submitted drawings
- The legal right of the applicant to carry out the proposed development.

7.6. The public newspaper notice refers to “the demolition of existing adjoining garage/workshop and the construction of a two storey granny flat dwelling and associated site works all within the curtilage of 1, Convent Lane”. There is no mention of proposed car parking spaces in the newspaper notice or the site notice. Submitted drawings show 1 additional proposed car parking space within the red line of the appeal site and another 2 proposed spaces within a blue line stated to be the “parents landholding”. The ‘Existing Site Plan’ shows the existing garage at the northern end of the lands marked in blue but this is not shown on the ‘Proposed Site Plan’ and it is not clear if this is to be removed. The application documents include a letter from the applicants parents stating that they are aware of the application “for a granny flat dwelling on our garage/workshop at 1, Convent Lane”. This does not cover other important aspects of the proposed development. I consider that clarification is needed.

7.7. I note that Area Engineer’s comments that “the development can only proceed if the applicant has a right of way over the private lane to the rear”. I consider that this is important as Church Hill has poor vertical and horizontal alignment along this stretch and the opportunities for car parking in the vicinity are restricted. I consider that substantive evidence of the applicant’s ability to carry out the development is required before further consideration of this proposal.

8.0 Recommendation

8.1. I recommend that further information be sought as follows:

1. The proposed development as advertised in the newspaper notice and site notice appears to differ from the proposed development as indicated on submitted drawings as follows:
 - The notices do not refer to proposed additional car parking spaces to be provided for the rear but the submitted drawings show a proposed parking space within the red line of the appeal site and another two spaces within the blue line stated to be “parents landholding”.
 - The ‘Existing Site Plan’ shows an existing garage structure with access off a private laneway at the northern end of the site outlined in blue whereas the ‘Proposed Site Plan’ does not show the garage.

Clarification is required of the precise nature of the proposed development in terms of car parking provision and the future of the existing garage structure referred to. This may require the publication of a new newspaper notice and the provision of new Site Notice.

2. The applicant is required to provide evidence of legal entitlement to carry out the proposed development in its entirety. This includes the right to carry out any development proposed on the lands outlined in blue and the right to access along the private laneway adjoining to the west of the appeal site and the adjoining site outlined in blue.

Des Johnson
Planning Inspector

19 December 2018