



An
Bord
Pleanála

Inspector's Report

ABP-304062-19

Development

The demolition of all existing structures on site, the decommissioning and removal of 3 no. underground fuel storage tanks and the construction of 4 no. houses.

Location

Knocknahorgan, Sallybrook, Glanmire, Co. Cork.

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

18/06142

Applicant(s)

DCN Developments

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party V. Grant

Appellant(s)

Catherine Shine

Observer(s)

None

Date of Site Inspection

13th June 2019

Inspector

Elaine Power

1.0 Site Location and Description

- 1.1. The site is located along the western side of the R639 in Sallybrook, approx. 1 km north west of Glanmire town centre and approx. 6km north east of Cork City. The Glanmire GAA grounds are located opposite the subject site however the surrounding area is generally characterised as residential.
- 1.2. The site is rectangular in shape and has a stated area of 0.17. The site is currently vacant and was previously in use as a petrol station. 3no fuel tanks are located underneath the site.
- 1.3. The site is bound to the north and south by terraces of single storey dwellings and to the east by the R639. The western section of the site and the lands immediate west of the site comprise a cliff of solid rock. The cliff is overgrown with shrubs and mature trees.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of an existing single storey building and all structures on site, the decommissioning and removal of 3 no. underground fuel storage tanks and the construction of 4 no. houses. The 4 no. two-storey houses formed a terrace with direct frontage onto the public road. The gross floor area of the houses range from 88.7sqm to 114.9sqm.
- 2.2. The works include the rationalisation of existing vehicular accesses to provide 1 no. access with 4 no. communal car parking spaces, bin storage and bicycle parking along the northern boundary of the site. A new 2m wide public footpath is proposed along the eastern boundary of the site, with the R639.
- 2.3. ***Further Information lodged 6th February 2019***

In response to a further information request the scheme was revised to provide 3 no. dwellings on site. The revised layout reduced the amount of rock breaking that would be required. The revised scheme comprises 1 no. detached dwelling with designated car parking located to the south of the site and 2 no. (1 no. pair of) semi-detached houses located in the centre of the site with 3 no. communal spaces provided along the northern boundary of the site. All houses have a gross floor area of approx. 99sqm.

The submission included an Engineering Design Report and public lighting design report.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 39 no. conditions. The relevant conditions are noted below:

Condition 1: clarified that permission was granted for the scheme submitted by way of further information.

Condition 2: required a construction management plan to be submitted regarding the proposed measures / methods for removing the rock.

Condition 3: required the provision of a minimum 2m wide public footpath along the eastern boundary of the site.

Condition 14: required a revised Method Statement be submitted regarding proposals to deal with contaminated groundwater and / or soils.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Area Planners report and the Senior Executive Planners report raised concerns regarding the proposed development and requested that further information be sought regarding the following:

- The scale of the development should be reduced
- Information on the amount of rock breaking required
- A tree survey
- Details of legal ownership
- Consent from Irish Water to connect to the public system
- Details of available sightlines
- Increased provision of car parking
- Details of boundary treatments

- A public lighting design

The final reports by the Area Planner and Senior Planner considered that concerns raised had been fully addressed and granted permission subject to conditions.

3.2.2. **Other Technical Reports**

Public Lighting: The final report recommended that permission be granted subject to conditions.

Estates Report: The final report recommended that permission be granted subject to conditions.

Environment Report: No objection subject to conditions.

3.3. **Prescribed Bodies**

Irish Water: No objection

3.4. **Third Party Observations**

A submission was received from Catherine Shine, whose property is located to the north of the appeal site. The concerns raised are similar to those in the third-party appeal submission.

4.0 **Planning History**

Reg. Ref. 3548/05: Permission was refused in 2005 for the demolition of an existing building, removal of underground fuel tanks and the construction of 4 no. apartments. The 2no. reasons for refusal related to (1) the visual impact of the removal of a large portion of rock embankment and its impact on existing trees and (2) overdevelopment of the site and inadequate provision of open space.

5.0 Policy Context

5.1. Cobh Municipal District Local Area Plan, 2017

The subject site is located within the 'existing built up area' of Glanmire which is identified as a 'Main Town' in the Local Area Plan. Policy GM-GO-01 aims to facilitate the development of 1,200 new dwellings in Glanmire by 2023.

5.2. Cork County Development Plan

5.2.1. The relevant policies of the Cork County Development Plan are set out below.

- HOU 3-1: Sustainable Residential Communities
- HOU 3-2: Urban Design
- HOU 3-3: Housing Mix
- HOU 4-1: Housing Density on Zoned Land.
- SC5-2: Quality Provision of Public Open Space
- SC 5-8: Private Open Space Provision
- TM 2-1: Walking
- TM 2-2: Cycling
- ZU 2-1: Development and Land Use Zoning
- ZU 2-2: Development Boundaries
- ZU 3-2: Appropriate Uses in Residential Areas

5.3. *National Planning Framework (2018)*

The relevant policies of the National Planning Framework which relate to creating high quality urban places and increasing residential densities in appropriate locations are set out below.

- Policy Objective 4
- Policy Objective 6
- Policy Objective 11
- Policy Objective 33
- Policy Objective 35

5.4. **National Guidance**

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).

5.5. **Natural Heritage Designations**

There are no designated areas in the immediate vicinity of the site.

5.6. **EIA Screening**

- 5.6.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. A third-party appeal was received from Catherine Shine whose property is located to the north of the appeal site. The issues raised are summarised below.
- The applicant does not own a section of the site. A section of the appellants land has been included within the red line boundary.
 - Concerns regarding the excavation of rock and the impact on the stability of the adjoining properties and potential for falling trees / vegetation and debris.
 - Health and safety concerns regarding the removal of underground fuel storage tanks.
 - The scale of the development will negatively impact on the existing residential amenities of adjoining properties.

6.2. **Applicant Response**

The Applicants submission is summarised below:

- Documentary evidence of the applicant's ownership of the site has been submitted and includes deeds, land registry map and details of the purchase of the site.
- The proposed scheme has been designed to ensure it would not negatively impact on existing residential and would improve the visual amenity of the existing brownfield site.
- The revised scheme submitted by way of further information significantly reduces the amount of rock breaking required. An Engineering Design Report was submitted to the Planning Authority and includes a survey of the cliff and details how the development would be constructed without destabilising the cliff.

6.3. **Planning Authority Response**

None

6.4. **Further Responses**

The appellant response to the applicant's submission is summarised below: -

- The ownership history of the site is noted and reiterates that the appellant does not want any of her property included within the development site.
- Concerns raised that the excavation of the cliff would cause damage to the adjoining residential house which is over 200 years old. It would also significantly impact on the existing residential amenities.

7.0 **Assessment**

7.1. As indicated, the appeal refers to the revised scheme of 3 no. houses as submitted by way of further information on the 6th February 2019. The following assessment therefore focuses on that proposal with reference to the original proposal, where appropriate.

7.2. The main concerns raised in this appeal relate to the impact the proposed development would have on the adjoining property to the north of the subject site, in terms of residential amenity and health and safety concerns and legal issues.

Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Residential Amenity
- Health and Safety
- Legal Issues
- Appropriate Assessment

7.3. ***Residential Amenity***

- 7.3.1. Concerns are raised in the appeal that the proposed development would negatively impact on existing residential amenities. It is proposed to construct 3 no. 2-storey dwellings on an infill site. The scheme comprises a contemporary approach to a traditional design, with a simple palette of materials consisting of render with large modern windows and a metal finish to front canopy feature on the ground floor. The houses have pitched roofs, with a maximum height of approx. 7.6m. The proposed houses are to be located in the centre of the site. The gable end of house 1 is located approx. 8m from the southern boundary of the site with an existing single storey dwelling. The gable end of house no. 3 is located approx. 15.5m from the northern boundary of the site and approx. 24m from an existing single storey house. It is noted that there are no windows on the sides of the houses. Having regard to the design and layout of the scheme and the orientation of the site it is considered that the proposed development would not have an overbearing impact or result in undue overlooking or overshadowing of adjoining properties.
- 7.3.2. Concerns were also raised regarding the impact of noise during the construction phase. It is acknowledged that there would be some noise disturbance during the construction phase however it is my view that the development would not result in an unacceptable level of noise disturbance for adjoining residents. Notwithstanding the above it is considered that a condition, requiring the method of rock breaking to be agreed with the Planning Authority, be attached to any grant of permission.

7.4. *Health and Safety*

- 7.4.1. The appellant raised health and safety concerns regarding the potential for subsidence of the cliff during the construction phase. There is a steep cliff located to the west of the subject site with a level difference of approx. 14m between the subject site and the top of the cliff. It is proposed to remove approx. 1250m³ of rock from the western boundary of the site to facilitate the development. An Engineering Design Report was submitted by way of further information and outlines a number of mitigation measures to stabilise the cliff face both during construction and occupation of the dwellings. It is noted that the Planning Authority raised no objection to the excavation.
- 7.4.2. In my opinion, the structural adequacy of the cliff is not a matter that would be appropriate for the Board to adjudicate on. It is considered that the onus is on the applicant and their contractors, to ensure that the construction phase is undertaken in a safe manner, in accordance with their obligations under separate codes, and I further note that the granting of permission would not relieve the applicants of their responsibilities in this regard. It should be noted that under section 34(13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a permission to carry out any development.
- 7.4.3. I consider that the disputes between the parties in relation to matters of structural stability, construction methods and resultant health and safety risks that may or may not arise are ultimately matters that would be dealt with more appropriately outside of the planning appeal process.
- 7.4.4. Concerns were also raised regarding the removal of underground fuel storage tanks. A Method Statement for the decommissioning and removal of the tanks was submitted with the application to the Planning Authority. It is noted that the Planning Authority's Environmental Section recommended that a condition be attached requiring that information regarding proposals to deal with any contaminated groundwater and / or soils during the construction phase. I have reviewed all the submitted relevant documentation and I would conclude that a similar condition be attached to any grant of permission.

7.5. **Legal Issues**

Concerns were also raised in the appeal that the northern section of the subject site is outside of the applicant's ownership. In response the applicant submitted deeds, a land registry map and details of the purchase of the site as documentary evidence of ownership. Section 5.13 of the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Section 34(13) of the Planning and Development Act 2000 (as amended) states, 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development and the distance from 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

8.0 **Recommendation**

- 8.1. I recommend that permission be granted subject to conditions.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the location of the site within the 'existing built up area' of Glanmire, the provisions of the Cork County Development Plan, 2014, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the area. 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 6th day of February 2019 by way of further information, 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 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 method for removing rock, intended construction practice for the development, including noise management measures and off-site disposal of construction / demolition waste.

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

3. Prior to commencement of development a Method Statement for the decommissioning and removal of the tanks, including proposals to manage any contaminated groundwater and soil, shall be submitted to and agreed in writing by the Planning Authority.

Reason: In the interest of orderly development

4. Trees to be removed on site shall be felled in late summer or autumn. Any disturbance to bats on site shall be in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist.

Reason: In the interest of nature conservation.

5. 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.

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 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.

6. The formation of the vehicular accesses to the site and the provision of a footpath along the eastern boundary of the site shall be constructed in accordance with the requirements of the planning authority.

Reason: In the interest of orderly development and traffic safety

7. Proposals for a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility

8. 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.

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

Reason: In the interest of public health.

10. Site development and building works shall be carried out only between the hours of 0700 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 amenities of property in the vicinity.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

12. 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

Elaine Power
Planning Inspector

2nd July 2019