



An
Bord
Pleanála

Inspector's Report ABP-304970-19

Development

- (a) The demolition of Riverview House, detached garage, and swimming pool.
- (b) The construction of 3 detached dwelling houses.
- (c) Modifications to boundary treatment, including new boundary walls to road side and new entrances to each of the dwelling houses.
- (d) All associated site works.

Location

Riverview House, Mansfield's Land, Blind Gate, Kinsale, Co. Cork.

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

19/5455

Applicant(s)

Gerard McEvoy & Maria Fox

Type of Application

Permission

Planning Authority Decision

Grant, subject to 7 conditions

Type of Appeal

Third Parties -v- Decision

| | |
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| Appellant(s) | Rachelle Kelly Brian McCarthy Michael & Monica Broderick Sinead & Michael Ryan |
| Observer(s) | None |
| Date of Site Inspection | 2 nd October 2019 |
| Inspector | Hugh D. Morrison |

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1.0 Site Location and Description

- 1.1. The site is located to the south west of Kinsale town centre in the townland known as Town-Plots. This site lies in an area that is in predominantly residential use. It is accessed off Blind Gate, a north/south street, via Ballinacubby, an east/west access road to new housing comprised in Ballinacubby Estate to the north and, more recently, Pine Grove to the south. The site is also to the south of this road, with Pine Grove to its west.
- 1.2. The main body of the site is of regular shape and it extends over an area of 0.301 hectares. At present it accommodates a dwelling house known as Riverview House, which is sited in a central position within the southern half of the site, and a freestanding single garage, which is sited in a position adjacent to the southern side elevation of the dwelling house. This dwelling house comprises a ground floor with a first floor above the southern portion of this ground floor, which presents as front and rear gables. Its front and rear elevations are orientated on an east/west axis and it is surrounded on three sides by an extensive mature garden, which includes an open-air swimming pool in the south west corner of the site. The gated entrance to the site is in the north eastern corner and a driveway connects this entrance to the front and rear elevations of the dwelling house.
- 1.3. The site is bound to the north by Ballinacubby, to the east by a row of 2 pairs of two-storey semi-detached dwelling houses, Nos. 1 – 4 Orchardville on Blind Gate, to the south by a shared driveway to bungalows at Mansfield House, and, to the west, by a row of 3 terraced two-storey dwelling houses. The boundaries to the site are denoted by walls, which are supplemented by hedgerows.
- 1.4. Beyond the curtilage to the said dwelling house, the application site also encompasses that portion of the Ballinacubby access road that abuts the northern boundary and a short further portion towards the junction between this road and Blind Gate.

2.0 Proposed Development

- 2.1. The proposal would entail the following elements:

- The demolition of the six-bedroomed dwelling house (223 sqm), garage, and swimming pool,
- The construction of 3 detached two-storey four-bedroomed dwelling houses (total floorspace 592 sqm), which are denoted as A (eastern plot), B (central plot), and C (western plot). These dwelling houses would be sited in a slight stepped layout and they would be of similar design with interlocking front and rear gabled forms. They would be finished and brick and render under slated roofs.
- Each dwelling house would be served by a dedicated entrance and drive-in off Ballinacabby and this access road would partially widened and provided with a public footpath on the nearside to the site. The widened portion of the road would be laid out as a shared surface. The resulting set back boundary to the site would be denoted by means of a 1.2m high natural stone-faced wall.

3.0 Planning Authority Decision

3.1. Decision

Permitted subject to 7 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See decision.

3.2.2. Other Technical Reports

- Cork County Council:
 - Area Engineer: No engineering concerns. Comments to the effect that the current proposal is similar to 18/5362, within which 1 dwelling house was omitted due to the issue of overshadowing.

4.0 Planning History

- Part V Exemption Certificate application to shadow the current proposal.

- 18/5362: Refurbish and extend existing dwelling house + construct 2 new dwelling houses: Permitted, subject to the omission of the more easterly of the 2 new dwelling houses, to prevent overshadowing of dwelling houses at Orchardville to the east, and to the re-siting of the more westerly new dwelling house a minimum of 3m to the east, in the interest of orderly development.

5.0 Policy and Context

5.1. Development Plan

The site lies partially within the area covered by the Kinsale Town Development Plan 2009 (TDP) and partly within the Bandon – Kinsale Municipal District Local Area Plan 2017 (LAP). Under both Plans it is zoned “established residential”.

5.2. Natural Heritage Designations

- Sovereign Islands SPA (site code 004124)
- Old Head of Kinsale (site code 004021)

5.3. EIA Screening

Under Items 10(b)(i) & (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2019, where more than 500 dwelling units would be constructed and where 10 hectare-urban sites would be developed, the need for a mandatory EIA arises. The proposal is for the development of a 0.301-hectare site to provide 3 dwelling units. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The four appellants reside at Nos. 1, 2, 3 & 4 Orchardville. They have submitted the same grounds of appeal and supporting documentation.

- Attention is drawn to the omission of a new dwelling house on the eastern portion of the site from the permission granted to 18/5362 in order to avoid over development and to safeguard the visual and residential amenities of the dwelling houses on Orchardville to the east of the site.
- Under the current proposal, one of the three dwelling houses proposed would be sited in a similar position to the one that was previously omitted. The Planning Authority's approach in permitting this proposal is thus inconsistent with that previously taken.
- The view is expressed that the site should only accommodate 2 dwelling houses, either the existing and 1 new one or 2 new ones, and that they should be sited in positions that would obviate any impact upon Orchardville.
- Attention is drawn to the shallowness of the rear gardens to the dwelling houses on Orchardville and hence the importance of ensuring that they are not overshadowed.

6.2. Applicant Response

- Attention is drawn to the submission of a comprehensive 3-D shadow study, which established the following:
- The proposal would comply with the 45- and 25-degree rules cited in the document entitled "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice."
- Due to the shallowness of the rear gardens, their rear boundary walls already overshadow the said gardens and ground floor windows of the dwelling houses on Orchardville.

- The proposal would increase the aforementioned overshadowing slightly and such increase would be confined to the final hour of daily sunlight.
- The proposal would accord with the National Planning Framework (NPF), which seeks to maximise the use of underutilised sites. This proposal would also comply with the LAP's zoning of the site and, as discussed above, it would be compatible with residential amenity.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the TDP and the LAP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use, density, and development standards,
- (ii) Amenity,
- (iii) Traffic, access, and parking,
- (iv) Water, and
- (v) Screening for Stage 1 AA.

(i) Land use, density, and development standards

7.2. The eastern portion of the site lies within the ambit of the TDP, while the western portion lies within the ambit of the LAP. In both Plans the site is shown as being zoned "established residential". Under the proposal, the site would be redeveloped

for a residential after use. The existing dwelling house on the site is of relatively recent origin and its design has no intrinsic quality that would prompt its retention on conservation or aesthetic grounds. Thus, there is no, in principle, objection to its demolition. Furthermore, as the site lies within an area that is predominantly in residential use, its zoning means that there is no, in principle, land use objection to the its continuing in residential use.

- 7.3. The site has an area of c. 0.2795 hectares, i.e. net of the adjoining portion of the Ballinacubby access road. At present, this site accommodates a single dwelling house, whereas under the proposal it would accommodate 3 dwelling houses. Thus, the net residential density would increase from the equivalent of 3.58 dwellings per hectare to 10.73 dwellings per hectare. (An extant permission for the site (18/5362) would entail the retention of the existing dwelling house and the addition of only 1 extra dwelling house, i.e. the equivalent of 7.16 dwellings per hectare).
- 7.4. In anticipation of the discussion under the following two headings, there are constraints upon the redevelopment of the site, which are such as would militate against the achievement of a higher density on what is effectively an infill site between two rows of dwelling houses to the east and to the west and adjacent to other dwelling houses to the north and to the south. In these circumstances, I raise no objection to the density that the proposal would exhibit.
- 7.5. Each of the dwelling houses would afford a satisfactory standard of accommodation for four-bedroomed dwelling houses and they would be accompanied by sufficient private outdoor space.
- 7.6. I conclude that the proposal would be appropriate from a land use perspective and that, in the circumstances pertaining to the site, no objection to the resulting density would be warranted. Each of the dwelling houses would afford an acceptable standard of amenity to future occupiers.

(ii) Amenity

- 7.7. The applicant has submitted plans, which show contextual elevations and cross sections of the proposal in conjunction with the adjacent rows of dwelling houses, to the east, at Orchardville, and to the west, at Pine Grove. These plans envisage that the slight fall in the level of the site from east to west would be reflected in the finished ground floor levels of the proposed dwelling houses A & B, each at

33.650m, and proposed dwelling house C, at 33m. The equivalent floor levels at Orchardville rise in a southerly direction and so Nos. 2 and 4 are shown as being at 34.940m and 34.070, respectively, while No. 1 Pine Grove is shown as being 32.190m.

- 7.8. The applicant's proposed site plan shows the relationships that would ensue between the proposed dwelling houses and the existing ones to the east and to the west. The appellants reside at Nos. 1, 2, 3 & 4 Orchardville, i.e. the adjacent dwelling houses to the east of the site. They draw attention to the shallowness of their rear gardens, at 3m, and the planning history of the subject site, which indicates that under the extant permission, a dwelling house was omitted from the eastern portion of this site, due to concerns about overshadowing of their properties. They now contend that proposed dwelling house A would be sited in a similar position to the one that was omitted and so the Planning Authority's draft permission is inconsistent with its former one.
- 7.9. The proposed site plan shows by means of a hatched line the footprint of the extra dwelling house that is permitted for the site under the aforementioned extant permission. This footprint overlaps with that of the proposed dwelling house A and so it would be sited further to the west than the dwelling house that was omitted from this permission. This plan also cites the closest separation distances that would arise between the single and two storey portions of dwelling house A, i.e. 8.114m and 11.488m.
- 7.10. The applicant has responded to the appellants renewed concerns about overshadowing by submitting a "Daylight and Shadow Study of Proposed Works". This Study shows that, due to a combination of the shallowness of the rear gardens at Orchardville and the specification of a 1.8m rear boundary wall to these gardens, overshadowing of the corresponding dwelling houses already occurs in the evening and that proposed dwelling house A would add to such overshadowing only marginally.
- 7.11. The finished ground floor level of dwelling house A and its siting, form, and design would, likewise, combine to ease its visual impact upon Orchardville. Furthermore, no windows would be inserted in its north facing elevation and so there would be no opportunity to overlook Orchardville.

- 7.12. Dwelling house C would be sited in a position that would enjoy greater separation distances between it and the adjacent dwelling houses at Pine Grove and so its resulting impact upon these dwelling houses would be less than that which would pertain between dwelling house A and Orchardville.
- 7.13. The applicant has submitted a Tree Survey of the site, which identifies the condition of existing trees and those which would be retained and removed under the proposal. During the construction phase, trees identified for retention would need to be protected, and, thereafter, compensatory planting for those that would be removed would need to be undertaken. A landscaping plan should be conditioned to encapsulate these provisions and to assist, thereby, in the screening of the development.
- 7.14. I conclude that the proposal would be compatible with the visual and residential amenities of the area.

(iii) Traffic, access, and parking

- 7.15. Under the proposal, there would be an increase in traffic generate by the site, although this would not lead to a significant increase in traffic along the access road to Ballinacubby. Under the proposal, too, the existing single entrance to the site would be omitted and each of the proposed dwelling houses would be served by a dedicated entrance from the access road to Ballinacubby. In conjunction with the provision of these entrances, this road would be partially improved by means of its widening, the specification of a paved finish to denote a shared surface, and the introduction of a footpath along its southern side.
- 7.16. The applicant has submitted plans that depict the aforementioned entrances and improvements and the utility of the accompanying drive-ins and turning heads/parking areas, which would facilitate forward gear movements to and from the access road. The applicant has also commented on the sightlines that would be available at the proposed entrances. While these sightlines would be better than those that accompany the existing site entrance, in the case of those that would accompany the entrances serving proposed dwelling houses A and B they would, nevertheless, be sub-standard. In this respect, the applicant draws attention to the "T" junction between Blind Gate and the access road to Ballinacubby. The dimensions of the respective roads and the sightlines/visibility that is available are

such that, of necessity, vehicle speeds are low and so, by extension, vehicle speeds on the access road are slow, too. Thus, any hazard that would arise from the said entrances would be allayed, accordingly.

7.17. I conclude that the net increase in traffic generated by the proposal would be capable of being accommodated on the access road to Ballinacubby and that the proposed improvements to this road would both facilitate the needed entrances to the site and represent planning gain to its other users.

(iv) Water

7.18. The existing dwelling house on the site is served by the public water mains and the combined public foul and storm water sewer. Under the proposal, the existing connections in these respects would be added to, as a net increase of 2 dwelling houses on the site would occur. Pre-connection inquiries have thus been made with Irish Water. Additionally, existing foul sewers that traverse the site have been identified and they would be protected and retained.

7.19. Under the proposal, too, stormwater would be handled by means of individual soak pits, which would serve each dwelling house and grills across each accompanying entrance. These soak pits would be sized to allow for global warming (20%) and they would be constructed in accordance with BRE 365 recommendations. They would also be accompanied by silt traps.

7.20. The site is not shown as being the subject of any identified flood risk on the OPW's flood maps website.

7.21. The proposal would be capable of being served satisfactorily by the public water mains and foul water sewerage system. Likewise, on-site storm water drainage arrangements would be satisfactory.

(v) Screening for Stage 1 AA

7.22. The site lies neither in nor near to a Natura 2000 site. It is a serviced urban site that, under the proposal, would be redeveloped for a greater intensity of residential use only. The nearest Natura 2000 sites are the Sovereign Islands SPA and the Old Head of Kinsale SPA, both of which are physically removed and distant from the subject site. I am not aware of any source/path/receptor route between this site and

these sites and so I do not consider that the proposal would have a significant effect on their Conservation Objectives.

7.23. Having regard to the nature and scale of the proposal, nature of the receiving environment, and proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposal 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. That permission be granted.

9.0 Reasons and Considerations

Having regard to the Kinsale Town Development Plan 2009 and the Bandon – Kinsale Municipal District Local Area Plan 2017, it is considered that, subject to conditions, the proposal would comply with the zoning of the site and it would be of an appropriate density for the site within its context. The proposal would be compatible with the visual and residential amenities of the area and it would afford a satisfactory standard of amenity to future occupiers. Traffic generation would be capable of being accommodated on the improved adjoining access road and the proposed site entrances and on-site turning arrangements would facilitate forward gear movements to and from this road. Water supply and drainage arrangements would be satisfactory. No flood or AA issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

10.0 Conditions

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| 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 5 th day of July 2019, 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 |
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| | <p>planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>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:</p> <p>(a) A plan to scale of not less than [1:500] showing –</p> <p>(i) Existing trees, hedgerows, and shrubs, specifying which are proposed for retention as features of the site landscaping,</p> <p>(ii) The measures to be put in place for the protection of these landscape features during the construction period,</p> <p>(iii) The species, variety, number, size and locations of all proposed trees and shrubs, and</p> <p>(iv) Hard landscaping works, specifying surfacing materials and finished levels.</p> <p>(b) A timescale for implementation.</p> <p>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.</p> <p>Reason: In the interest of residential and visual amenity.</p> |
| 3. | <p>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.</p> <p>Reason: In the interest of visual amenity.</p> |

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| 4. | <p>The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p> |
| 5. | <p>Storm water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p> |
| 6. | <p>Proposals for an estate/street name, 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. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility.</p> |
| 7. | <p>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.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 8. | <p>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</p> |

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| | <p>waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p> |
| 9. | <p>Prior to the commencement of occupation of the dwelling houses, the improvements to the access road shown on drawing no. PLA-01 shall be fully undertaken.</p> <p>Reason: In order to ensure that an improved means of access to the site is available from the outset of the operational phase of the proposal.</p> |
| 10. | <p>The developer shall pay to the planning authority a financial contribution of €6465 (six thousand, six hundred and sixty-five euro) 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. The application of any indexation required by this condition 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.</p> <p>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.</p> |

Hugh D. Morrison
 Planning Inspector

15th October 2019