



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305311-19

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<b>Development</b>	Change of use from storage unit to living accommodation and all associated site works
<b>Location</b>	Listarkin TD, Union Hall, Co. Cork
<b>Planning Authority</b>	West Cork County Council
<b>Planning Authority Reg. Ref.</b>	19/301
<b>Applicant(s)</b>	Tony Sullivan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party V. Grant
<b>Appellant(s)</b>	Mary and Andrew Harrison
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> October 2019
<b>Inspector</b>	Elaine Power

## 1.0 Site Location and Description

- 1.1. The subject site is located in the Centre of Union Hall village. It comprises a two-storey mid-terrace building, which is in a state of disrepair. The building has a stated gross floor area of 96sqm and was formerly used as a store.
- 1.2. The site overlooks the inner Glandore harbour to the north. It has a 100 percent site coverage and fronts directly onto the public road (L-4227). The building is bound to the east by a two-storey house which is listed on the NIAH (Ref. 20914231) and to the south and west by an existing storage unit with associated house and grounds.

## 2.0 Proposed Development

- 2.1. It is proposed to change the use of an existing vacant store to a two-storey 2-bed house, with a gross floor area of 96sqm. The ground floor accommodates a kitchen and separate sitting room and the first-floor level accommodates 2 no. bedrooms (with en-suite).
- 2.2. Alterations to the front elevation includes the provision of 3 no. dormer style windows at first floor level.
- 2.3. An internal bin storage area has been provided with access from the public footpath.
- 2.4. A Flood Risk Assessment was submitted with the application.
- 2.5. ***Further Information lodged on 25th July 2019***

Revised plans submitted raised the floor level and the ridge height by 0.27m to minimise the impact of flooding. Double doors were also proposed on the ground floor front elevation in lieu of a window.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant Permission subject to 11 no. conditions. The relevant conditions are noted below:

**Condition 1** clarified that permission was granted for the revised development submitted by way of further information on the 25<sup>th</sup> July 2019.

**Condition 2** replaced the proposed double doors, on the front elevation with a window and required that the ridge height not exceed that of the adjoining building to the east.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Initial report by the Area Planner raised concerns regarding the potential for flooding and recommended that further information be sought. The final report considered that all concerns had been addressed by raising the finished floor level and recommended that permission be granted subject to conditions.

### 3.2.2. Other Technical Reports

**Estates** final report: No objection

**Engineering** final report: No objection

## 3.3. Prescribed Bodies

Irish Water: No objection

## 3.4. Third Party Observations

A third-party submission was received from Mary and Andrew Harrison. The concerns raised are similar to those in the third-party appeal.

## 4.0 Planning History

**Reg. Ref. 18/133:** Permission was refused in 2018 for the change of use from store to living accommodation with associated alterations. The reason for refusal related to flood risk.

## 5.0 Policy Context

### 5.1. West Cork Municipal District Local Area Plan, 2017

The appeal site is located within the settlement boundary for Union Hall which is designated as a Key Village in the plan. The plan allows for the provision of 80 no. additional residential units within the settlement boundary and notes that the continued renewal of properties within the Village Core would be desirable. The site adjoins a designated walkway (U-01). The plan also notes that parts of the village are subject to flooding.

### 5.2. Cork County Development Plan, 2014

Policy ZU 2-2 – Development Boundaries states *‘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’.*

The following policies are considered relevant.

TCR 2-1: Town Centre

TCR 9-1: Vacancy and Regeneration

ZU 3-1: Existing Built up Area

Objectives WS 61 and WS 6-2: relate to developments in flood risk areas.

Cork County Councils document *making places: a design guide for residential estate development* is also considered relevant.

### 5.3. National Guidance

- National Planning Framework 2040
- Quality Housing for Sustainable Communities: Best Practice Guidelines

#### **5.4. Natural Heritage Designations**

Myross Wood SAC (001070) is located approx. 1.7m north of the appeal site.

#### **5.5. EIA Screening**

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**

A third-party appeal was received from Mary and Andrew Harrison. The issues raised are summarised below: -

- The site is located within a flood zone and there is a spring located under the existing vacant store.
- The village does not need another 2-bedroom house, additional storage facilities are required.
- The rear elevation of the property has never been surveyed.
- The rear boundary wall of the building is bound by the appellants property. The proposed windows on the rear elevation would, therefore, unduly overlook their property. There is also an objection to velux roof lights as due to the level differences between the sites they would also result in overlooking. The loss of privacy would devalue the appellants property.
- The proximity of the building to an existing residential property would also have a negative impact on the privacy of future occupants.

- There should be no overhanging of gutters etc onto adjoining private property. At present rainwater runs from the roof into the appellants garden. The applicant has no way to maintain the rear elevation of the proposed house.
- Any construction work would negatively impact on an existing surface water drain in the adjoining property.
- The proposed height is out of character. The building was originally single storey. It was extended approx. 60-70 years ago to harmonise with the appellants store located to the west of the appeal site. The proposed works could negatively impact on the adjoining structures
- The increased height would overshadow the adjoining property and would limit existing views of the harbour from the garden.
- Fire safety concerns as there is no rear access.
- The proposed development would result in noise disturbance.
- The development would place additional pressure on the foul sewer network.
- Concerns regarding hygiene as bin storage is located within the proposed house.

## 6.2. Applicant Response

The applicant's response is summarised below: -

- The development is fully compliant with the Cork County Development Plan, 2014 and West Cork Municipal District Local Area Plan, 2017.
- The development has been carefully designed to ensure it does not negatively impact on the existing residential amenities of adjoining properties.
- The development can be constructed and maintained from within the site boundaries.
- The ridge height would remain the same as existing and, therefore, would not have any impact on overshadowing or loss of views.
- The development would be completed in accordance with all building regulations.

- Surface would be disposed of via the public network and would not enter the appellants site. Irish Water and the Planning Authority have raised no concerns regarding the proposed surface water drainage and sewerage proposals.

### 6.3. **Planning Authority Response**

No further comment

## 7.0 **Assessment**

7.1. As indicated the appeal refers to the development as submitted with the Planning Authority, on the 25<sup>th</sup> July 2019, by way of further information. The following assessment, therefore, focuses on that proposal with reference to the original scheme, where appropriate. The main issues relate to flood risk, residential amenities and construction practices. 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:

- Flood risk
- Residential Amenity
- Construction Practices
- Appropriate Assessment

### 7.2. **Flood Risk**

7.2.1. The site is located approx. 12m from the Inner Glandore Harbour. Cork County Councils Flood Risk Maps indicate that the site is located within Flood Zone A. In Flood Zone A the probability of flooding from rivers and the sea is highest (greater than 0.5% or 1 in 200 for coastal flooding). The OPW flood risk maps indicate that there is a reoccurring coastal flooding within the Union Hall, however, the subject site is located outside of the catchment.

7.2.2. A Flood Risk Assessment (FRA) was submitted with the application it notes that the present-day tidal flood level is 2.41mOD for the 1 in 200 year coastal flooding. The

current ground floor level of the store is 2.39m. The final floor level of the proposed dwelling, as submitted by way of further information is 2.41. To facilitate access to the raised floor level a ramp is proposed along the public road.

7.2.3. The Planning System and Flood Risk Management Guidelines, 2009 outlines in Table 3.1 the 'vulnerability of different types of development'. The proposed residential use is considered vulnerable. In accordance with Table 3.2 of the guidelines a Justification Test is required for a vulnerable use in Flood Zone A. However, the guidelines also notes that for minor proposals, which are unlikely to result in significant flooding issues, the Justification Test will not apply, unless the proposal would obstruct an important flow paths, introduce a significant additional number of people into a flood risk area or relate to the storage of hazardous substances. However, a risk assessment should accompany any application and should demonstrate that the proposed development would not have an adverse impact or impede access to a watercourse, floodplain or flood protection and management facilities. A site-specific Flood Risk Assessment has been included with the application

7.2.4. The Flood Risk Assessment concludes that the proposed development would not increase the risk of flooding in the area. The document also contains mitigation measures to minimise flood risk to people, property, the economy and the environment, and recommends measures to ensure residual risks can be managed. It is proposed that a flood resilient design would be incorporated into the construction methodology.

7.2.5. It is noted that the Planning Authority's Area Engineer raised no concerns regarding the proposed development. I have reviewed all the submitted relevant documentation and I would conclude that the proposed development would adequately satisfy the flood risk concern.

### 7.3. ***Residential Amenity***

7.3.1. The appeal site is bound to the east by an existing house which is located on the NIAH (ref. 20914231) and to the west by a storage unit. The storage unit is ancillary to a house which is located to the south-west (rear) of the appeal site. It is considered that the renovation of a derelict site within the centre of the village and



abutting an existing house which is listed on the NIAH, would enhance the character and visual amenities of Union Hall.

- 7.3.2. Concerns were raised in the appeal that the proposed development would have a negative impact on the existing residential amenities of the adjoining property, in terms of overlooking, overshadowing and noise.
- 7.3.3. It is noted that the rear building line of the proposed house forms the boundary with the appellants property. The proposed works include the provision of 4 no. ground floor windows and 2 no. velux type roof windows. The 4 no. ground floor windows are high level windows, located approx. 1.8m above ground floor level. I have no objection to the provision of high-level windows. However, I recommended that a condition be attached to any grant of permission that the windows be located a minimum of 1.8m above the internal finished floor level. In my view the provision of 2 no. roof lights, which serve the en-suites, would not result in undue overlooking.
- 7.3.4. The development is accommodated within an existing structure and the applicant has stated that the height of the structure would not be increased to accommodate the development. However, the drawings submitted indicate that the overall height of the structure would be increased by 0.5m to match the adjoining house to the east. Having regarded to the limited increase in height and the orientation of the site it is considered that it would not result in undue overshadowing of adjoining properties.
- 7.3.5. Concerns were also raised regarding the residential amenity of future occupants regarding the limited size of the house, the under provision of open space and the location of bin storage. Quality Housing for Sustainable Communities: Best Practice Guidelines sets out a minimum room sizes and width for a variety of house types. It is noted that the proposed layout does not reach some of the standards. However, in my opinion as the proposed layout is provided within an existing structure the layout is acceptable.
- 7.3.6. The proposed house has a 100 percent site coverage. Therefore, having regard to the restricted nature of the site there is no provision of private open space. Cork County Councils document making places: a design guide for residential estate development recommends a minimum provision of 48sqm for 2-bed houses. However, this relates to new developments. In my view some flexibility regarding the

provision of open space is permissible in relation to developments accommodated within the fabric of an existing structure. It is noted that the issue of private open space was not raised by the Planning Authority. In my view, having regard to the restricted nature of this serviced, urban site and its proximity to the Glandore inner harbour, it is appropriate in this instance to relax the requirement for open space.

7.3.7. Bin storage is separate to the main house and is accessed from the front of the dwelling. I have no objection to the location of the proposed bin storage area. However, in my opinion, doors which open out onto the public road could cause an obstruction to other road users. Therefore, it is recommended that a condition be attached to any grant of permission that the door to the bin storage does not open outwards.

7.3.8. Concerns were raised in the appeal regarding the potential noise disturbance generated by the proposed use. Having regard to the location of the development within an urban area and the nature of the proposed use. It is my view that the proposed residential use would not result in an unacceptable level of noise disturbance for adjoining neighbours.

#### 7.4. ***Construction Practices***

7.4.1. Concerns were raised regarding fire safety and construction practices, as there is no access to the rear of the existing building from within the site, and the potential for pipes and gutters overhanging / oversailing adjoining properties.

7.4.2. In response the applicant has stated that all construction work would be carried out within the boundaries of the site and that all works would be in accordance with the relevant building regulations and best practices guidelines.

7.4.3. 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.

## **7.5. *Appropriate Assessment***

- 7.5.1. Having regard to the nature and small scale of the proposed development within a serviced urban area 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**

I recommend that permission be granted subject to conditions.

## **9.0 Reasons and Considerations**

Having regard to the site's location, within the 'Existing Built up Area' of Union Hall, the existing pattern of development and the nature and small 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 25<sup>th</sup> day of July 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 double doors on the front elevation shall be replaced with a window ope.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. The high-level ground floor level windows on the rear elevation shall be at least 1.8m above the finished floor level of the house.

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

4. The access door to the bin storage area shall not be outward opening.

**Reason:** In the interest of safety

5. The formation and construction of the ramp along the northern (front) 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

6. 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.

7. The applicant shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

8. Proposals for a house numbering / naming shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of urban legibility

9. 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.

10. 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 noise management measures and off-site disposal of construction/demolition waste.

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

11. 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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Elaine Power  
Planning Inspector

20<sup>th</sup> November 2019