



An
Bord
Pleanála

Inspector's Report ABP-305507-19

Development	Two houses and waste water treatment units
Location	Shanagarry South, Midleton, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	18/7269
Applicant(s)	Lucy Pearce
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Mary & Jeremy Martin
Date of Site Inspection	12 th December 2019
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The 0.36 hectare site is located in the east side of Shanagarry village in east Cork, approximately 600 metres to the east of Shanagarry R.C. Church. The site lies on the south side of Regional Road R632 and is immediately east of a junction of this road with a minor road leading to residential properties and Stephen Pearce's pottery premises. It comprises a linear field bounded by low stone walls and low hedgerow/embankment along its northern, eastern and western boundaries, with an established tree and hedgerow boundary along its southern (rear) boundary.
- 1.2. The residential pattern of development along the regional road is linear in form. Properties in the vicinity include new detached houses to the east, a bungalow on the opposite side of the road and the appellants' house, Kilmahon House, to the rear.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of two detached houses, each with garages to the front and the provision of a dual entrance onto the public road. The houses would each be four bedroom, single-storey houses and the total gross floor area of each would 224 square metres. The houses would be served by a public mains water supply and on-site private waste water treatment plants.
- 2.2. Details submitted with the application included a Design Statement, a Tree Survey and Impact Assessment, and a Site Characterisation Form relating to the proposed waste water treatment systems.

3.0 Planning Authority Decision

3.1. Decision

On 30th August 2019, Cork County Council decided to grant permission for the proposed development subject to 8 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the planning history of the location, planning policy, the Irish Water report received, and the third party submission. The principle of the development was accepted, reference was made to the impact on the adjoining protected structure, and the visual impact was considered acceptable. Reference was also made to the results of the site assessments for the waste water treatment units appearing to be satisfactory. The third party concerns relating to flooding were acknowledged. A request for further information was recommended relating to visual impact on the adjoining protected structure, flood risk assessment, and acquiring missing information from the site assessments on waste water treatment.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

3.4. Third Party Observations

A submission was received from Mary and Jeremy Martin that raised concerns relating to the need for the development, impact on residential amenity, impact on the protected structure Kilmahon House, the negative visual impact, access, and flooding.

A request for further information was made on 11th February 2019 and a response was received from the applicant on 6th August 2019. This included a revised layout, with the proposed houses being laid out closer together, and the removal of the garage in proposed House 1. Following this, the reports to the planning authority were follows:

Following a review of the submission, the Planner recommended that permission be granted subject to conditions.

4.0 Planning History

ABP Ref. PL 04.233002

A proposed development of 21 serviced sites was refused by the Board. Three proposed serviced sites associated with this application occupied the current appeal site.

5.0 Policy Context

5.1. East Cork Municipal District Local Area Plan 2017

Shanagarry

Shanagarry/Garryvoe is designated a village in the Plan. The site lies within the settlement boundary of the village.

The vision for the village is to promote its tourism potential in tandem with a balanced provision of services and permanent residential development and to protect the special environment and coastal setting of the area.

Local Area Plan Objectives

These include:

- DB-01: To encourage the development of up to 70 houses within the development boundary during the Plan period.
- DB-02: Appropriate and sustainable water and waste water infrastructure that secures the objectives of the Water Framework Directive and the Great Island Channel Cork Harbour Special Area of Conservation, and Cork Harbour Special Protection Area, must be provided and be operational in advance of the commencement of any discharges from development. Waste water infrastructure must be capable of treating discharges to ensure that water quality in the receiving water does not fall below legally required levels.

5.2. EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

The appellants reside in Kilmahon House to the rear of the site. The grounds of the appeal may be synthesised as follows:

- The proposed development would have a harmful impact on the protected structure Kilmahon House.
- There would be an adverse impact on the residential amenity of Kilmahon House.
- The proposal would have a negative visual impact, contrary to the provisions of the Midleton Electoral Area Local Plan. There is no need for the development given the development of new housing in the area and the vacancies that exist.
- There would be a risk of flooding.
- The proposal raises access and sightline concerns.

6.2. Applicant Response

I have no record of any response to the appeal from the applicant.

6.3. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

7.0 Assessment

7.1. Introduction

7.1.1 I consider that the principal planning issues relating to the appeal relate to the impact of the proposed development on the protected structure Kilmahon House, the impact on residential amenity, impact on the visual amenity of the area, flood risk and site suitability for waste water disposal, impact on European Sites, and traffic impact.

7.2. Impact on Kilmahon House

7.2.1 I am firstly of the opinion that, as Kilmahon House is on the record of protected structures in Cork County Development Plan, one should not be overly concerned as to whether the site for the proposed development is or is not within the former curtilage of the protected structure. When assessing the proposed development one ultimately should still be considering whether the proposed development does or does not have an adverse impact on the protected structure, its setting, curtilage or attendant grounds. Thus, this assessment will not seek to debate where the curtilage or former curtilage lies.

7.2.2 One must understand the existing context of the setting of the protected structure. The proposed site presents itself as a field separate from the current curtilage or land area associated Kilmahon House to the south. There is a well-established tree and hedgerow line separating the existing curtilage of the house from the site. It is further noted that Kilmahon House does not address the regional road to the north in any formal way. The front elevation is to the south. In addition, the line of trees and associated hedgerow between that property and the appeal site primarily screens out the visibility of the existing house from the regional road. This remains so even in the winter period, as evidenced from my site inspection. The tree line and associated hedgerow are proposed to be retained as part of the development proposal and planting is to be enhanced. Having regard to these observations, the visibility or otherwise of the protected structure from the regional road is not a relevant factor in determining the impacts of the proposed development on the visual amenity of the area or the visual integrity of the protected structure when viewed from the public realm.

7.2.3 The proposed introduction of two houses on this site, while masking further the very intermittent visibility of parts of the protected structure from the regional road, could not be seen to seriously or significantly impact on the integrity or setting of the protected structure. Indeed, the boundary treatment proposals and the revisions to House 1 and the layout submitted as part of the applicant's further information would result in the proposed development introducing no tangible substantive change to the context and setting of the protected structure.

7.3 Impact on Residential Amenity

7.3.1 The proposed development would have no adverse impact on the residential amenity of the residents of the dwelling to the rear in terms of impact on privacy, overbearing impact, overlooking or overshadowing. It is notable that the appellants have not demonstrated how the proposed development could impact on their residential amenities. There would be a significant separation distance of some 48 metres between the proposed development and the existing property to the rear, there would remain in place a substantial tree and hedgerow screen between the properties, and the proposal would provide for rear boundary treatment that would include backplanted timber fencing. The amenities of the residents of the property to the rear could not reasonably be seen to be significantly adversely affected in this instance.

7.4 Impact on Visual Amenity

7.4.1 Development along the regional road onto which the proposed development would have frontage primarily consists of a linear pattern of housing in the immediate vicinity of this site. There is a wide mix of house types and substantial variations in building heights, scale, design, etc. The proposed development would continue the trend of this linear pattern of development and could not reasonably be seen to be any more out of character or be seen to be a development that would distort the visual amenity of this area any more than the long-established or more recent development in the area. One could not reasonably discern that this proposal has a distinctive adverse visual impact that would merit the refusal of planning permission.

7.5 Flood Risk and Waste Water Disposal

7.5.1 In my opinion, this is the most critical issue when considering the proposed development. The appeal site is not served by a public foul sewerage system. I note that the planning authority requested further information that sought a flood risk assessment for this site. The request made reference to the susceptibility to flood risk of the south-west section of the site. This south-west section would be the location for the proposed private on-site waste water treatment plant to serve proposed House 1. I acknowledge the appellants' photographic evidence in their submissions to the planning authority and to the Board. This ably demonstrates the impact of flooding on the periphery of this side of the site and on the public road. The applicant's response to this issue was somewhat dismissive, informing the planning authority that the incidence of flooding arose from a blocked gully. It is my submission that this part of the site is evidently prone to ponding and the applicant has not demonstrated that this location would be a safe location to site a private waste water treatment plant.

7.5.2 In addition to the concerns for the treatment of waste water for House 1, I wish to draw the attention of the Board to the extensive ponding on the east side of the site that was experienced at the time of my site inspection. There was extensive ponding on and in the vicinity of the proposed location for the waste water treatment unit for proposed House 2. It is my submission to the Board that this is not a suitable site for the treatment of waste water by private on-site waste water treatment units. This clearly is a problematic site, given the susceptibility of this site to ponding. This site has very poor drainage characteristics. Effluent that would be generated cannot be safely disposed of within this site. The percolation rate at this site would be too slow and there is a very clear concern that ponding of effluent would arise at the locations of the percolation areas. The proposed development constitutes a significant pollution threat.

7.5.3 The above observations and the pattern of development that continues as new housing gets developed in Shanagarry raises very serious concerns about the sustainability of new development in this village. It is clear that this is a location where there is a proliferation of houses that are each dependent on individual private

effluent treatment systems. The proposed development, on a site with poor drainage characteristics, would compound the concerns arising from an unsustainable pattern of development served by individual treatment systems. In my opinion, it defies any orderly approach to the development of land in such a context to be pursuing housing in this manner. This proposal, adding to the proliferation of private effluent treatment systems, must be construed as posing a serious potential pollution hazard. One must reasonably determine that development of the nature proposed is premature pending the provision of a waste water treatment system for the village of Shanagarry.

7.6 Impact on European Sites

7.6.1 The nearest part of Ballycotton Bay Special Protection Area to the appeal site is located approximately 160 metres to the south-east. The site is of special conservation interest for a range of bird species, namely Teal, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Turnstone, Common Gull, and Lesser Black-backed Gull. The conservation objectives for this site are to maintain the favourable conservation condition of the named bird species and to maintain the favourable conservation condition of the wetland habitat in the SPA as a resource for the regularly occurring migratory birds that utilise it.

7.6.2 Having regard to my observations above relating to waste water disposal, to the water-related pathways available to the European site, and to the potential for the proposed development to have a significant effect on the habitats of this SPA, I must conclude that an appropriate assessment should have accompanied the planning application for this proposed development as one cannot reasonably determine at this stage that the proposal would or would not adversely affect the integrity of the European site.

7.7 Traffic Impact

7.7.1 The proposed development would be sited along a relatively straight stretch of regional road within the village of Shanagarry. There would be no particular alignment, structure or pavement concerns associated with this stretch of road in the village. There is no reason to suggest that the proposed development would pose a distinctive traffic hazard arising from the generation of traffic from two houses within this village location.

8.0 **Recommendation**

8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 **Reasons and Considerations**

Having regard to the soil conditions on this site and the associated poor drainage characteristics, it is considered that, notwithstanding the proposed use of proprietary effluent treatment systems, the proposed development would constitute an unacceptable risk of pollution and would be prejudicial to public health. Furthermore, it is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive density of development served by private effluent treatment systems in the area. Development of the kind proposed on the land would, thereby, be premature by reference to the existing deficiency in the provision of sewerage facilities.

Kevin Moore
Senior Planning Inspector

15th January 2020