



An
Bord
Pleanála

Inspector's Report ABP-305586-19

Development	House, garden shed and covered passage
Location	Whitepoint, Ringmeen, Cobh, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/4332
Applicant(s)	Peter Brennan & Caroline McCarthy
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	John Reilly
Date of Site Inspection	23 rd January, 2020
Inspector	Kevin Moore

1.0 Site Location and Description

The 0.09 hectare site is located at the south-western end of Cobh, at Whitepoint. Residential development in the Whitepoint peninsula consists of mixture of styles and periods. The site comprises the side garden of a two-storey detached house and has frontage onto the seafront road. The boundaries consist of a low stone wall along the roadside and a high stone wall with hedge/trees on the southern flank. The adjoining property to the south (the appellant's property) is on a large site. The appellant's dwelling is located at the southern end at the road's edge. The area to the west nearest the appeal site comprises a side garden. There is a septic tank immediately to the south of the flank boundary on the appellant's property.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a detached house. The house would be two storeys in height with an attic conversion. It would be a five bedroom unit with a gross floor area of 334 square metres. It would be served by mains water and public sewer.

3.0 Planning Authority Decision

3.1. Decision

On 12th September 2019, Cork County Council decided to grant permission for the proposed development subject to 15 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner referred to the site's planning history, the policy context, reports received, and the third party submission. It was considered that the principle of a dwelling had been established with the previous grant of permission for a house on this site. Noting the site is located within Flood Zone B in the Cobh Development Plan, it was acknowledged that a flood risk assessment had not be submitted. The third party concerns about impacts on a boundary wall were seen to be a civil matter.

Concerns about proximity to a septic tank were seen to have been previously addressed in Appeal Ref. PL 53.237842. A request for further information was recommended.

3.2.2. Other Technical Reports

The Water Services Section had no objection on environmental grounds.

The Area Engineer requested further details on sightlines.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

3.4. Third Party Observations

A third party submission was received from John Reilly. The grounds of the appeal reflect the principal planning concerns raised.

A request for further information was sought on 8th April 2019. This requested details on sightlines at the proposed entrances, a flood risk assessment, measures to protect the existing boundary wall to the south, confirmation of how the proposal conforms to the EPA Code of Practice relative to the proximity to the neighbour's existing septic tank, revisions to omit full length windows and recessed balconies at second floor level on the front elevation, and a longitudinal section through the site.

A response to the further information request was received on 20th August 2019.

Following this submission the reports to the planning authority were as follows:

The Area Engineer had no objection to the proposal subject to a schedule of conditions.

The Planner had no objection to the proposal and recommended that permission be granted subject to a schedule of conditions.

4.0 Planning History

ABP Ref. PL 53.206792

Permission was refused by the Board for the construction of two detached houses and installation of waste water treatment systems.

ABP Ref. PL 53.237842

Permission was granted by the Board for the construction of a house.

5.0 Policy Context

5.1. Cobh Town Development Plan 2013

Zoning

The site is zoned 'Existing Built Up Area'.

Residential Infill

The Plan states that proposals for development involving the intensification of residential uses within existing residential areas such as houses in side gardens will need to clearly demonstrate that the proposal respects the existing character of the area and would not harm the amenity value of adjoining properties.

Objectives include:

HOU-08 – Infill Development

It is an objective, normally in residential areas, to ensure that proposals for 'infill' development preserve or enhance or both the character of the area as a whole and the setting of any original buildings on the site.

5.2. Appropriate Assessment

The proposed development would comprise a fully serviced dwelling within a residential area in the town of Cobh. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any

designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.3. **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 grounds of the appeal may be summarised as follows:

- The proposed dwelling is located less than 2m from the appellant's septic tank and does not comply with regulations.
- The assumption that all houses will connect to the Lower Harbour Drainage Scheme when completed is not based on consultation with the appellant. There is no obligation to join the scheme. Permission should not have been granted based on the available information.
- Concerns raised about windows on the southern elevation and balconies at second floor level have not made it into the requirements of the planning permission.
- It is clarified that the further information drawings show the proposed house being 1500mm from the boundary wall and not 2.08m.

The appeal includes a site layout plan showing locations of affected facilities. A copy of the submission to the planning authority is included which references the above issues as well as impact on the boundary wall and sightline concerns.

6.2. **Applicant Response**

The applicant's response to the appeal may be summarised as follows:

- The waste water treatment system layout and location provisions referred to by the appellant apply to circumstances where it is proposed to install a treatment system. These conditions do not apply as a treatment plant will not be required.
- The Lower Harbour Water Drainage Scheme is due for completion in 2021 and the proposal will not be completed until it can be connected to this scheme.
- Windows on the south facing elevation will be glazed with obscure glass.

The response includes further details on the works associated with the Lower Harbour Water Drainage Scheme.

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 relate to the siting of the proposed house in proximity to a septic tank system, the impact on residential amenity, the impact on a boundary wall, and the traffic impact.

7.2. Proximity to a Septic Tank

7.2.1 There is an existing septic tank system on the appellant's property located just south of the boundary wall that separates this property from the site of the proposed development. In considering this issue, I first note that the Board previously granted permission for a dwelling on the appeal site under ABP Ref. PL 53.237842. The issue of proximity of a proposed dwelling to an existing septic tank system was raised in that previous appeal also. The Board determined in that instance that the proposed development would not be prejudicial to public health.

7.2.2 I note that the appellant makes reference to non-compliance with regulations in the context of the proximity of the proposed house to his existing septic tank system. I acknowledge that the EPA's current guidance *Waste Water Treatment Manual: Treatment Systems for Single Houses* relates to proposals for new houses seeking to be served by a private waste water treatment system. It is acknowledged that the proposed development seeks to be served by public sewer. The appellant's septic tank system is a long-established existing effluent treatment system in very close proximity to the boundary between the properties. Given that the proposed house seeks to be served by public sewerage facilities, it would be unreasonable to refuse permission due to the existence of the appellant's septic tank system in such close proximity to the appeal site.

7.2.3 I note that the applicants seek the new house to be served by public sewer when the Lower Harbour Main Drainage Scheme is completed in this area of Cobh. It is referenced that this scheme is due to be completed in this area in 2021. Permission for the proposed development should be premised upon a condition which does not permit occupancy of the proposed house until the development can be connected to the public sewerage system. Further to this, I note that the appellant has submitted that there is no obligation for established properties to connect to the new public system. That is correct. However, there would evidently be the opportunity for the appellant to avail of this new service and to minimise the potential adverse effects arising from an established private treatment system at this coastal location.

7.3. Impact on Residential Amenity

7.3.1 The appellant has raised concerns about a number of windows on the southern gable elevation of the proposed house. There is the potential for interference with privacy. I also note that it is proposed to provide a boardwalk along the southern side of the proposed house.

7.3.2 There is a high stone wall along the boundary separating the properties and this should address any concerns at ground floor level, inclusive of the boardwalk. The issue of first and second floor windows on the southern elevation of the proposed house can reasonably be addressed by way of planning condition, requiring the omission of the living room window at first floor level and the provision of opaque glazing in the landing window at second floor level. I do not consider that the window serving the stairwell in the hall and landing on the ground and first floor levels requires such glazing due to its function to light the stairwell and not as a window serving a habitable room or a window that would likely accommodate a viewing platform southwards over the neighbouring property.

7.4. Impact on the Boundary Wall

7.4.1 There is an existing high stone wall separating the appeal site from the appellant's property. The appellant has submitted that this wall is within his property. Concerns are raised about the proximity of the proposed house relative to this long-established wall and it is evident that the concerns relate to the potential to undermine the structural stability of the wall.

7.4.2 The applicant's site layout plan submitted by way of further information to the planning authority indicates that the proposed house would be located less than one metre from the site's southern flank boundary, with a boardwalk cantilevered off the side wall of the proposed house. I note also that the elevation drawings show a separation distance between the existing wall and the proposed southern gable of approximately 1.3 metres. Clearly the construction of the foundations for the proposed house would bring the works very close to the existing boundary wall and has the potential to undermine the integrity of that wall. It is my submission to the Board that the oversight of such works by a Structural Engineer is necessitated and would alleviate concerns about the potential adverse effects on this wall. Appropriate mitigation measures could be enshrined in an agreed programme of works with the

planning authority prior to the commencement of development and this could reasonably form a condition with a grant of planning permission.

7.5. Traffic Impact

7.5.1 Sightline issues were addressed by way of further information submitted to the planning authority. This culminated in the provision of separate entrances to the proposed house and the adjoining existing house to the north. I acknowledge that the existing property fronts onto a minor seafront road. I do not consider that the traffic generated by the proposed development would interfere with the flow of traffic on that road and safe access and egress can be attained.

8.0 **Recommendation**

8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

9.0 **Reasons and Considerations**

Having regard to the planning history of the site, to the established residential nature of the area, the zoning provisions for the site as set out in the current Cobh Town Development Plan, and to the design, character and layout of the development proposed, it is considered that the proposed dwelling would not adversely impact on the residential amenities of adjoining properties, would be acceptable in terms of visual impact and traffic safety, and would otherwise be in accordance with the provisions of the current Cobh Town Development Plan. 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 drawings and details submitted to the planning authority on the 20th August, 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 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity.

3. The proposed living room window at first floor level on the southern elevation shall be omitted and the proposed landing window at second floor level in the southern elevation shall be glazed in obscure glass.

Reason: In the interest of residential amenity.

4. The developer shall employ a suitably-qualified Structural Engineer to undertake a pre-development assessment of the impact of the proposed development on the boundary wall along the southern boundary of the site and to monitor the impact of site development works on this wall at construction phase. A report containing the results of the assessment and detailing the

proposed construction methodologies shall be submitted to the planning authority for written agreement prior to commencement of construction works.

Reason: To protect the amenities of property in the vicinity

5. The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development. The proposed house shall not be occupied until it is served by the public sewerage system.

Reason: In the interest of public health and orderly development.

6. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

7. 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.

8. The developer shall pay to the planning authority a financial contribution in respect of the Cobh/Middleton – Blarney Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Kevin Moore
Senior Planning Inspector

5th February 2020