



An
Bord
Pleanála

Inspector's Report

ABP-305931-19

Development	Demolish existing cottage, erect a new dwelling and all ancillary site works.
Location	Whitehaven Cottage, Whitepoint , Ringmeen, Cobh, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/5204
Applicant(s)	Naoimh Reilly
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	Colin Taft
Observer(s)	None
Date of Site Inspection	7 th February 2020
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The appeal site is located on White Point Road in Cobh. Cobh is located on Great Island approx. 20km south east of Cork City. Whitepoint is a mature residential area which is located to the south west of the centre of Cobh. There are a variety of house styles and sizes within the immediate vicinity of the site.
- 1.2. The existing dwelling fronts directly onto White Point Road, at the coastal edge and has extensive views over Cork Harbour. It is bound to the north, south and west by an existing residential dwelling which is elevated approx. 4.6m above the appeal site.
- 1.3. The site is generally rectangular in shape and has a stated area of 166sqm. It currently accommodate a derelict 2-storey house, which is surrounded with a metal mesh fence. The existing house has a gross floor area of approx. 53sqm and a maximum height of 4.9m.

2.0 Proposed Development

- 2.1. It is proposed to demolish an existing 2-storey cottage with a gross floor area of approx. 53 sqm and construct a replacement dwelling with a gross floor area of 134.4 sqm. The design of the proposed dwelling comprises 2 no. separate elements. One element is a redesign of the original cottage on site. It fronts directly onto White Point Road and has a similar footprint and design to the original cottage. It has a gable ended pitched roof with a maximum height of approx. 6.1m and the includes 2 no. first floor level dormer windows. The second element of the proposed dwelling is located to the rear (west) of the site. It has a contemporary design approach with large windows. The external materials include timber cladding, render and a selected local stone finish on the ground floor of the front elevation. It has a gable ended pitched roof with a maximum height of 6.5m. It is also proposed to provide a new single storey glazed porch with a maximum height of 3.3m.
- 2.2. An area of private open space is provided to the north of the site with additional areas of landscaping proposed to the rear (west) and front (east) of the proposed dwelling.

2.3. ***Unsolicited Further Information submitted 26th June 2019***

The applicant submitted a response to concerns raised in third party submissions. The response did not result in any alterations to the proposed development.

2.4. ***Further Information submitted 26th September 2019***

In response to concerns raised regarding the impact of the development on a historic kiln located to the south of the site, the width of the dwelling was reduced by approx. 0.5m to provide a setback from the structure. Details of how the development would be constructed, to ensure there would be no negative impact on the existing structure were also submitted.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was granted subject to 10 no. conditions. Relevant conditions are detailed below: -

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

Condition 2: de-exempted further extensions or alterations to the dwelling.

Condition 4: related to a supplementary contribution in respect of the Cobh / Midleton – Blarney Suburban Rail Project.

3.2. **Planning Authority Reports**

3.2.1. ***Planning Reports***

The initial Area Planners report raised concerns regarding the proximity of the proposed dwelling to an existing historic kiln structure and recommended that further information be sought regarding access and maintenance to the structure. The final report considered that following receipt of further information all concerns and been fully addressed and recommended that permission be granted subject to conditions.

3.2.2. ***Other Technical Reports***

Area Engineer's report: No objection subject to conditions

3.3. Prescribed Bodies

Irish Water: No objection

3.4. Third Party Observations

3 no. third-party submissions were received. The concerns are similar to those raised in the appeal.

4.0 Planning History

Appeal Site

None

Surrounding Sites

PL04.301978-18, Reg. Ref. 17/6814: Permission was granted in 2018 for the construction of an extension and alterations to an existing house located to the rear of the appeal site (appellants house).

ABP 305586-19, Reg. Ref. 19/04332: Permission was granted in 2019 for the construction of a house on a site located approx. 85m north of the appeal site. The third-party appeal is due to be decided in February 2020.

5.0 Policy Context

5.1. Cobh Town Plan, 2013

The subject site is located within the 'Existing Built Up Area' of Cobh. Section 5.9.1 - Extensions to Dwellings of the Plan states '*the construction of extensions to houses will generally be encouraged as a sustainable use of land. The design and layout of extensions should have regard to the amenities of adjoining properties, particularly as regards sunlight, daylight and privacy*'. The relevant policies of the plan are noted below:

- HOU-04: Sustainable Residential Communities
- HOU-05: Protecting Residential Amenity
- HOU-07: Design Standards
- HOU-11: Existing Built Up Area

5.2. **Cork County Development Plan, 2014**

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

- HOU 3-2: Urban Design
- HE 5-1: Cultural Heritage
- ZU 2-1: Development and Land Use Zoning
- ZU 2-2: Development Boundaries
- ZU 3-2: Appropriate Uses in Residential Areas

5.3. **Natural Heritage Designations**

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

5.4. **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 Colin Taft, whose property adjoins the appeal site. The concerns raised are summarised below: -

- The proposed extension is too close to the appellants site and the excessive height of the development would have a negative impact on the existing residential amenities.
- The proposed windows on the western elevation would result in undue overlooking of adjoining residential properties.
- The appeal site is bound by an historic lime kiln. There is an insufficient separation distance between the proposed development and the kiln to allow for any future maintenance work which may be required.
- The kiln is not robust as indicated in the structural engineer's report. A section of the kiln has collapsed. The proposed construction works could potentially further damage the kiln.
- The revised plans submitted by way of further information indicate a concrete pad attached to a steel frame located on the appellants property. No consent has been given for these works.

6.2. Applicant Response

The applicant's response is summarised below: -

- Details of the applicant's connection to the area and details of the purchase and works to date on the appeal site have been provided.
- A specialist conservation engineer has provided input to the development proposals. It is considered that a sufficient separation distance has been provided between the proposed development and the adjoining kiln to allow for the maintenance of the kiln and the construction of the development. A copy of the letter from the conservation engineer is included in an appendix.
- The adjoining structure is the remains of a kiln. It is not a kiln building. It is not a protected structure or listed on the NIAH.
- There are currently construction works underway on the appellants site, on top of the kiln, with little regard for the kilns structural stability. Photographs of existing construction works have been included.

- It is proposed to provide a steel fence between the site boundary and the proposed house. No works are proposed on the appellants site. The development would be carried out within the boundaries of the site.
- All works would be carried out to prevent damage to adjoining properties. This is not a requirement of the planning system.
- The existing house is derelict. The proposed works would enhance the visual amenities of the area.
- The proposed dwelling does not result in any overlooking of adjoining properties and would not negatively impact on existing residential amenities.

6.3. **Planning Authority Response**

None

7.0 **Assessment**

7.1. As indicated the appeal refers to the development as submitted with the Planning Authority, on the 26th September 2019 by way of further information. The following assessment, therefore, focuses on that proposal. The main issues relate to the residential amenities, cultural heritage 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 Amenities
- Cultural Heritage
- Legal Issue
- Appropriate Assessment

7.2. ***Residential Amenities***

7.2.1. It is proposed to demolish an existing 2-storey cottage with a gross floor area of approx. 53 sqm and construct a replacement dwelling with a gross floor area of 134.4 sqm. The design of the proposed dwelling comprises 2 no. separate elements. One element is a redesign of the original cottage on site. It fronts directly onto White Point

Road and has a similar footprint and design to the original cottage. It has a gable ended pitched roof with a maximum height of approx. 6.1m and the includes 2 no. first floor level dormer windows. The second element of the proposed dwelling is located to the rear (west) of the site. It has a contemporary design approach with large windows. The external materials include timber cladding, render and a selected local stone finish on the ground floor of the front elevation. It has a gable ended pitched roof with a maximum height of 6.5m.

- 7.2.2. Concerns have been raised that due to the height and siting of the house that it would have a negative impact on the existing residential amenities with particular regard to loss of privacy from overlooking.
- 7.2.3. The site is bound to the north, south and west by the appellants house and garden. The appellants property is elevated approx. 4.6m above the appeal site. There is an existing retaining wall to the west of the site with a maximum height of 4.6m. The proposed house partially sits at the western boundary and is located a maximum of 1.7m from the retaining wall. It is located between 0.5m and 0.8m from the southern boundary with the kiln structure and approx. 5m from the northern boundary, with the appellants vehicular access and driveway. The existing cottage has a gable ended pitched roof with a maximum height of approx. 4.9m. The proposed dwelling has a maximum height of 6.1m. The proposed development would, therefore, result in an increased height of 1.2m. Having regard to the established pattern of development in the vicinity of the site and the elevational differences between the appeal site and the appellants site, it is my opinion that the height and siting of the proposed house would not have a negative impact on the existing residential amenities of adjoining properties.
- 7.2.4. There is a large section of glazing at first floor level on the northern (rear) elevation, which serves the stairwell. The stairs are located approx. 1m from the window and a void is provided over the ground floor level. As the window serves the stairs, which are set back 1m from the first-floor window and having regard to the height of the existing retaining wall, approx. 4m, it is my opinion that the proposed window on the northern elevation would not result in undue overlooking of adjoining properties.

7.2.5. In conclusion, it is my opinion that the proposed development would not have a negative impact on residential amenities of the area and that the re-development of a derelict site within an established residential area and on the coastal edge, would enhance the character and visual amenities of Cobh.

7.3. ***Cultural Heritage***

7.3.1. The southern boundary of the site is bound by the remains of a kiln structure. It is noted that the kiln structure forms the foundations of an elevated garden area associated with the appellants site, to the rear of the appeal site. The appellant has stated that the structure is a cultural heritage site and that the proposed development would have a negative impact on the kiln.

7.3.2. While Policy HE 5-1: Cultural Heritage of the development plan is acknowledged it is noted that the structure is not listed on the record of protected structures or on the National Inventory of Architectural Heritage and forms part of a boundary wall of an existing residential property. It is, therefore, my view that the proposed development would not negatively impact on the cultural heritage of the area.

7.3.3. Concerns were also raised regarding the potential negative impact that construction phase would have on the structural stability of adjoining kiln structure and on future maintenance of the structure.

7.3.4. The proposed house has been set back a minimum of approx. 0.5m from the kiln structure, to allow for any future maintenance works. An engineer's letter has been submitted by way of further information which states that, due to the robust nature of this type of structure, there are no structural concerns in relation to the construction phase of the development. It is also noted that the development would be constructed to ensure there was no impact on the stability of the kiln structure.

7.3.5. In my opinion, issues relating to structural impacts and potential damage to the kiln structure are not matters that would be appropriate for the Board to adjudicate on. It is considered that the onus is on the applicants 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.

- 7.3.6. In conclusion, I consider that the disputes between the parties in relation to matters of structural integrity, 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. ***Legal Issue***

- 7.4.1. Drawings submitted by way of further information show the proposed development set back a minimum of approx. 0.5m from the southern boundary of the site, with an adjoining kiln structure. It is proposed to provide a steel fence between the southern site boundary and the proposed house. Concerns were raised in appeal that a concrete pad attached to a steel frame would be provided on the appellants site to facilitate the proposed fence. In response, the applicant has stated that all works would be carried out within the appeal site boundaries.

- 7.4.2. From the information submitted it would appear that all works would be carried out within the site boundary. However, 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. In conclusion, I consider that the disputes between the parties in relation to site boundaries, that may or may not arise, are ultimately matters that would be dealt with more appropriately outside of the planning appeal process.

7.5. ***Appropriate Assessment***

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

It is recommended 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 Cobh, 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 26th day of September 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. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling houses without a prior grant of planning permission.

Reason: In the interest of residential amenity having regard to the restricted nature of the site.

3. The reinstatement of the public footpath along the eastern (front) boundary of the site shall be in accordance with the requirements of the planning authority.

Reason: In the interest of orderly development

4. 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.

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

Reason: In the interest of public health.

6. 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.

7. 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.

8. 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.

9. The developer shall pay to the planning authority a financial contribution in respect of the Cobh / Midleton – 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.

Elaine Power
Planning Inspector

12th February 2020