



An
Bord
Pleanála

Inspector's Report ABP-306393-20

Development	Construction of a house and the provision of a wastewater treatment system.
Location	Fennell's Bay, Kilcolta, Crosshaven, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/6550
Applicant(s)	John and Veronica O Sullivan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant(s)	John and Veronica O Sullivan
Observer(s)	None
Date of Site Inspection	2 nd March 2020
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The site is located in Fennell's Bay. Kilcolta approximately 2.1 kilometres south-west of Crosshaven and 21 kilometres south-west of Cork City. The area is characterised by a significant nucleus of residential properties on both sides of a cul-de-sac which is approximately four metres wide and overlooks Myrteville Beech. The roads in the area are narrow (approximately four metres wide).
- 1.2. The site has a stated area of 0.2457 hectares. It is irregular in shape and is accessed via a gated entrance associated with the residential property immediately west of the appeal site. There is a significant incline from the cul-de-sac to the appeal site and it is apparent that cutting into the site has taken place to access the location of the proposed dwelling on the site. Levels vary on the site by approximately twenty metres rising from the south-west of the site (17.7 metres OD) to the north of the site (37 metres OD).
- 1.3. The site is elevated with views to the south, south-east and east towards Myrteville Beach and harbour.

2.0 Proposed Development

- 2.1.1. It is proposed to construct a two-storey dwelling and install a proprietary wastewater treatment system. The house has a stated gross floor area of 328 square metres (sq. m.) and a maximum ridge height of approximately 8.3 metres. The external finish would comprise a white render.
- 2.1.2. Access to the house is proposed via an existing gated domestic entrance that serves the dwelling immediately west of the application site.
- 2.1.3. A wastewater treatment system and percolation area are proposed. There is a mains water supply available to serve the development.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for two reasons as follows:

- 1 Having regard to the steeply sloping topography of the site, with a site gradient in the order of 1:2, adjoining the coastline at Myrtleville Bay, to the characteristics of the subject site and the contents of the Site Assessment, the Planning Authority is not satisfied on the basis of the submissions made in the planning application that the site is capable of treating foul effluent arising from the dwelling in accordance with the standards set out in the Code of Practice for Wastewater Treatment and Disposal Systems serving Single Houses (Environmental Protection Agency 2009) and considers that the method of foil water disposal will lead to hydraulic overloading, will render the treatment of the effluent unacceptable and could increase the risk of serious water pollution. Accordingly, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
- 2 The subject steeply sloping site is sited within the settlement boundary of Crosshaven and bays and in an area of High Value landscape, overlooking Myrtleville and Myrtleville Bay. Notwithstanding the expired permission thereon, it is considered that the propose development, by reason the extensive groundworks required to accommodate the proposed dwelling and associated retaining structures, coupled with the scale, design, height and bulk of the dwelling would be seriously injurious to the visual amenities of the area, would constitute an unduly obtrusive and visually prominent feature, would not fit appropriately into the High value landscape at this location and would contravene the objectives HE 4-6, GI 6-1 and GI 7-1 of the Cork County Development Plan 2014. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The Area Planners report recommended that permission be refused for the reasons set out in Section 3.1 above.

3.2.2. *Other Technical Reports*

Area Engineer report. Concerns were expressed regarding the technical suitability of the proposed wastewater treatment system given that the site gradient exceeds those recommended within the EPA Code of Practice 2009-Annex C-C 2.1 Page 64, natural slope greater than 12%-this will lead to hydraulic overloading at the toe of the mound down slope which will, in effect, render the treatment of the effluent unacceptable.

4.0 **Planning History**

Planning Authority reference number 09/5187; In 2009, planning permission was granted for the construction of a dwelling house, domestic store and the installation of a wastewater treatment system on site.

Planning Authority reference number 14/4028; In 2014, An extension of duration of planning permission was granted in relation to the development permitted on the site under planning authority reference number P09/5187.

5.0 **Policy and Context**

5.1. ***Bandon Kinsale District Local Area Plan 2017.***

5.1.1. The subject site is located within the existing built up area of the Key Village of Crosshaven and Bays.

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

5.2.1. Policy ZU 2-2 - Development Boundaries states: For any settlement, it is a general objective to locate new development within the development boundary, identified within the relevant Local Area Plan that defines the extent to which the settlement may grow during the lifetime of the plan.

5.2.2. Chapter 12: Heritage

Section 12.4-New buildings and their surroundings

Specific objective HE 4-6: Design and landscaping of New Buildings

- (a) Encourage new buildings that respect the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.

5.2.3. Chapter 13: Green Infrastructure and Environment:

Section 13.5: *Landscape*

Section 13.6: *Landscape Character Assessment of County Cork*

GI 6-1: Landscape:

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land use proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

GI 6-2: Draft Landscape Strategy:

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

Section 13.7: *Landscape Views and Prospects:*

GI 7-1: General Views and Prospects:

Preserve the character of all-important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance (including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

The site is in an area identified as Indented Estuarine Coast in Appendix E of the Plan. These locations are designated as area of high landscape value, very high landscape sensitivity and are of national importance. Section 13.6 – *Landscape Character Assessment of County Cork* states that ‘very high sensitivity landscapes (e.g. seascape area with national importance) which are likely to be fragile and susceptible to change.’

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is located approximately 1.8 kilometres north-west of the Cork Harbour Special Protection Area (SPA).

5.4. Environmental Impact Assessment-Preliminary Examination

- 5.4.1. 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

This application is the subject of a first party appeal. The issues raised may be synopsised as follows:

- Planning permission was previously granted on this site for a dwelling house in 2009 and permission was further extended in 2014 by the Planning Authority.
- The house type is similar to that previously permitted on site except for the moving of a balcony area and the omission of the domestic store.
- The applicants were not in a position to build on foot of the previous permissions due to the economic downturn.
- Their means has changed recently and hence the submission of the current planning proposal.
- A phone call with a planner within the Planning Department indicated the principle of a similar dwelling on the site should be acceptable.
- There have been no significant changes to the development objectives of the Development Plan or within the Regional Planning Guidelines for the area since the previous permission was granted.
- The report from the Area Engineer in relation to the wastewater treatment proposals is not considered to be analytically correct as there are many ways of distributing hydraulic load and not resulting in over-loading at the toe of the mound of the raised percolation area.
- This matter (wastewater) could have been addressed by means of an appropriate planning condition.
- A linear distribution system for the percolation area could be used in the upper layers without any need for the creation of a mound.
- The area of the proposed house has already been excavated and hence extensive ground works are not necessary.
- The net floor area of the proposed house is 248 square metres. The 328 square metres stated in the planning application form includes the balcony area, all external walls and projections.

6.2. Planning Authority Response

None

7.0 Assessment

7.1. The main issues in this appeal relate to the reasons for refusal, in this regard the extent of cutting required on site to cater for a dwelling of the proposed scale and bulk, in an area of high landscape value overlooking Myrtleville Beech and Bay, and the site gradient and the ability of the site to treat the foul effluent in accordance with the EPA Code of Practice 2009 for wastewater treatment and disposal systems serving single houses and that. 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:

- Design and visual impact
- Wastewater Treatment.
- Appropriate Assessment.

7.2. Design and Visual Impact

7.2.1. The appellants state that the proposed dwelling is very similar to the one permitted on site in 2009 by the Planning Authority. They state that the changes comprise of moving a first floor a balcony from the west to the east elevation and an outdoor storage structure has been eliminated. They also state that the floor area is 248 square metres, not including the balcony, external walls and projections. No drawings of the 2009 permission have been submitted for comparative purposes. However, it is stated in the planning report that the dwelling permitted in 2009 comprised a t-shaped dwelling with a ridge height of seven metres.

7.2.2. Having regard to the elevated nature of the site within a landscape of high value and very high sensitivity, and given the significant extent of excavation works required to construct the proposed dwelling (in addition to the development of significant retaining wall structures up to a height of 3.5 metres above ground level), I am not satisfied that the proposed dwelling would integrate appropriately into this sensitive landscape by virtue of its, height, scale, bulk and massing. I am not satisfied that the design proposals have been specifically designed for the site, having regard to the

specific constraints on the site and, therefore, would not accord with the proper planning and sustainable development of the area

7.3. **Wastewater Treatment**

- 7.3.1. The site is located within the settlement of Crosshaven and the Bays. It is subject to significant pressure due to the extent of development that has occurred in this area to date. The area is served by public watermains. However, there is no foul sewer network located in this area. All of the adjacent dwellings are served by individual septic tanks and individual wastewater treatment systems. It is not apparent from the details submitted the precise location of the septic tanks and percolation areas/soak holes serving the neighbouring dwellings. It is likely that adequate separation distances in accordance with the EPA Code of Practice 2009 for individual wastewater treatment systems would be achieved given the generous plot sizes in the area.
- 7.3.2. However, the issue of proliferation of individual treatment systems has not been addressed. It is considered that given the existence of approximately 40 dwellings on individual treatment systems/septic tanks within a 300 metre distance of the application site, that the proposed development would exacerbate the proliferation of individual treatment systems in a limited area and therefore would be prejudicial to public health.
- 7.3.3. I note the report prepared by the Local Authority Area Engineers. The levels on the site vary dramatically with a level difference of approximately twenty metres from the south-west of the site to the north of the site. It is noted that the proposed packaged treatment system will be fitted with a pump to pump the effluent to a raised polishing filter. Having regard to the levels set out on the site contour plan submitted, it is apparent that levels on this part of the site (of the proposed polishing filter) rise from 33 metres OD to 34.5 metres OD which would be within the 12% range provided for under Annex C, C 2.1 Page 64, of the EPA Code of Practice 2009 and therefore technically the proposed system could work on this site

7.4. ***Appropriate Assessment***

- 7.4.1. Having regard to the nature and small scale of the proposed development 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 refused.

9.0 Reasons and Considerations

1. It is considered that the proposed development, by reason of the extensive groundworks required to accommodate the proposed dwelling and retaining structures, coupled with the scale, design, height and bulk of the dwelling would be seriously injurious to the visual amenities of the area , would constitute an unduly obtrusive and visually prominent feature, would not integrate appropriately into the high value landscape at this location and would contravene specific objectives HE 4-6, GI 6-1 and GI 6-2 and GI 7-1 of the Cork County Development Plan 2014. The proposed development would establish an undesirable precedent for similar development in the area and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by septic tanks and/or individual wastewater treatment systems in the area. The proposed development, would, therefore, be prejudicial to public health.

Fergal O'Bric

Planning Inspector

14th April 2020