



An
Bord
Pleanála

Inspector's Report ABP 306639-20

Development	Dwelling and associated works
Location	Site No.7 Cove View, Baltimore, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/554
Applicant	Connolly Property Developments
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellant	James Naylor
Observer(s)	None
Date of Site Inspection	27/04/20
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site, which has a stated area of 0.0304 hectares, forms part of a larger 1.55 hectare site accessed via a cul-de-sac lane off what is known as the new By-Pass Road at The Cove in the village of Baltimore. It is c. 220 metres to the south of the village centre. The said access also serves two other dwellings. A footpath has been provided along same to the site entrance. The overall lands are elevated and enjoy sea views to the north-west and west. Certain site services including access roads, footpaths and lighting have been developed in the northern portion in which 8 serviced sites are available (Phase 1). These works were permitted under ref. 11/713 (subsequently extended under ref. 17/56).

A mix of single and two storey dwellings (Cove Hill) bound the overall site to the south with varying boundary treatments. A stream is indicated to run along the southern boundary but has been diverted via a headwall into the drainage system developed in phase 1. Carbery Terrace and Salisbury Terrace bound the overall site to the west and north-west respectively. Due to the site works that have been carried out the ground levels are materially higher than the terraces.

Site No.7, within the said Phase 1, comprises the south-eastern most corner of the overall site. Due to overall site excavations embankments delineate the southern and eastern boundaries. Site No. 6 bounds the plot to the north.

2.0 Proposed Development

The application was lodged with the planning authority on the 28/08/19 with further details submitted on the 23/12/19 following a request for further information dated 08/10/19.

Construct a 2 storey 4 no. bedroom dwelling with a stated floor area of 145 sq.m. and ridge height of 8.380 metres. External finishes are to be a mix of render and natural stone.

A 2 metre high retaining wall along the embankment to the south is to be constructed. The existing sod/stone boundary to the rear is to be retained with a 0.5 metre high block wall to be constructed. The front boundary is to be delineated by a 0.75 metre high stone wall with 1.2 metre high pillars.

Connection to site services is proposed.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 14 conditions including:

Condition 2: development shall comply with the terms and conditions of permission ref. 11/713 as extended under ref. 17/56.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report dated 08/10/19 considers the proposal to be acceptable but recommends further information on the issues raised in the Estates Section report as summarised below pertaining to boundary treatments and bond. The 2nd report dated 16/01/20 following further information considers the response to be satisfactory. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

The 1st Estates Section report dated 17/09/19 notes that the original developer of the serviced sites is responsible for the provision of the boundary walls and not the individual site owners. Consistency of design/materials used in the boundary walls is important in terms of overall appearance of the development. Further information recommended seeking clarification of same, details pertaining to the bond on the parent permission and completion of road and footpath to the front of the site. The 2nd report dated 07/01/20 following further information notes that the original developers are to be responsible for the boundary walls with matters pertaining to the bond ongoing. No objection subject to conditions

Area Engineer in reports dated 20/09/19 and 07/01/20 has no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. **Third Party Observations**

An objection to the proposal received by the planning authority is on file for the Board's information. The issues raised are comparable to those set out in the 3rd party appeal summarised in section 6 below.

4.0 **Planning History**

2009 - 08/1216 – permission granted for 23 dwelling units on the overall site.

2012 - 11/713 – permission granted for 8 no. sites and associated site works as phase 1 on the overall site. This permission was extended under ref. 17/56 until February 2018. The works are substantially complete.

2019 - ABP 303745-19 (18/0049) – permission granted on appeal for 11 no. serviced sites and retention of site development works on the remainder of the overall site (phases 2/3).

2019 - 19/361 – permission granted for 2 storey dwelling on Site No.8.

19/396 – permission granted for 2 storey dwelling on Site No.1

2020 – 19/555 – permission granted for 2 storey dwelling on Site No.2.

19/773 – permission for 2 storey dwelling on Site No.3

5.0 **Policy Context**

5.1. Cork County Development Plan, 2014

Baltimore is designated as a key village.

Objective CS 3-2 - establish key villages as the primary focus for development in rural areas in the lower order settlement network and allow for the provision of local services by encouraging and facilitating population growth at a scale, layout and design that reflects the character of each village, where water services and waste water infrastructure is available. Supporting the retention and improvement of key social and community facilities and inter urban public transport.

5.2. West Cork Municipal District Local Area Plan 2017

The site is within the Existing Built Up Area of Baltimore.

Objective DB-01 – within the development boundary encourage the development of up to 85 additional dwelling units for full time occupancy during the plan period.

Objective DB-02 – protect and enhance the attractive coastal setting and landscape character of the village.

5.3. Natural Heritage Designations

The site is c. 200 metres to the east of Roaringwater Bay and Islands SAC and c.400 metres north-east of Sheep's Head to Toe Head SPA.

6.0 The Appeal

6.1. Grounds of Appeal

The 3rd party appeal which sets out the planning history on the overall lands can be summarised as follows:

- Site No.7 is directly under his northern boundary. No retaining wall has been built. He has been unable to undertake certain ground works within his property as a result. He is concerned that any building on the site might directly impact on the overall stability of the exposed bank.
- The original permission indicated that the boundary between his property and site 7 would be delineated by a 2 metre high natural stone face retaining wall. As yet this has not been constructed. As the developer has committed to take responsibility for the construction of all boundary walls on the site it is not unreasonable to ask when it proposes to do this or what penalties would come into effect if it does not to meet its obligations.
- There are health and safety issues for persons working on the site in the absence of the retaining wall.
- A condition comparable to condition 5 attached to permission ref. ABP 303745-19 (18/0049) requiring details of retaining walls and timescale for implementation would be appropriate.
- It is queried whether the applicant has met the requirements of condition 14 attached to the governing permission pertaining to the bond.

6.2. Applicant Response

The submission by McCutcheon Halley on behalf of the applicant can be summarised as follows:

- The perceived issues outlined in the appeal have been comprehensively addressed as part of the planning applications for the wider serviced site development.
- The security bond and boundary treatments are governed by the parent planning permission under ref. 11/713 as extended by ref.17/86.
- Condition 2 of the Council's decision further requires the development to comply with the terms and conditions of the parent permission. For the purposes of the development of a dwelling within site 7 there is appropriate clarity.
- The applicant has actively engaged with the Council and has agreed the proposed boundary treatments within the Phase 1 site. Whilst no specific condition was included under ref. 11/713 relating to boundary treatments, the applicant made a compliance submission to the Council in 2018 which included a drawing that outlined the proposed treatments. This included the boundaries for Site 7, both internal to the site and adjoining the appellant's property.
- The application includes the site wide boundary treatment drawings as part of the application documents as well as the commitment that the boundary treatments would be provided by the developer for the whole site. The site developer is the applicant in this instance.
- The issue of the security bond does not relate specifically to the subject application but to the parent permission which dates back to 2011. As outlined a new bond will be put in place to ensure the completion of the required works.

6.3. Planning Authority Response

No further comment.

6.4. **Observations**

None

6.5. **Section 131 Notice**

Due to the site location in proximity to a European Site certain prescribed bodies were invited to make a submission on the appeal. No responses received.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

1. Overview
2. Boundary Treatment
3. Bond
4. Appropriate Assessment

7.1. **Overview**

The appeal site is one of 8 serviced sites which secured permission under planning reference 11/713 with the duration of the permission extended until 2018 under reference 17/58. This comprises the first of two phases with permission granted for a further 11 serviced sites on appeal under ref. ABP 303745-19 (18/0049) with the overall scheme named Cove View.

The works in phase 1 have been carried out save for the completion of the access road and footpath directly in front of the subject site. In this regard I note that condition 3 attached to 11/713 requires the road to be completed to the boundary edge of site no.7 so as to provide for a direct link to lands to the south of the site.

In addition to the current application before the Board permission has been sought and granted for dwellings on 4 other sites within phase 1. Site 1 (ref.19/396), Site 2 (ref.19/555), Site 3 (ref.19/773) and Site 8 (ref.19/361). In all but one of the applications the planning authority sought further information on the same issues as in the current case.

The dwelling as proposed complies with the requirements of condition 2 attached to permission 11/713 in that it is 2 storeys with a ridge height no greater than 8.5 metres with external finishes being of painted plaster and natural stone and a setback from the road that accords with the original details provided.

7.2. **Boundary Treatment**

As a consequence of the development works permitted under permission reference 11/713 the overall site levels are lower than the adjoining lands to the north and west. To date a retaining wall along the boundary with the appellant's property has not been constructed. As can be extrapolated from the details accompanying file ref. 11/713, whilst indicative details were provided for the front boundary treatments to the individual sites, none were provided on the retaining wall. There is no specific condition attached to the decision relating to boundary treatments or timescale for their construction. The agent for the applicant in its appeal response advises the Board that a compliance submission to the Council in November 2018 included details of proposed boundary treatments and the retaining wall to the appellant's property. No indication is given as to whether a time period for their construction was committed to.

Notwithstanding, as per the details provided with the current application relating to site no.7, the southern boundary is to be delineated by a 2 metre high natural stone face retaining wall. The front boundary to the site is to be a 750mm high wall of natural stone with 1200mm high pillars which, from the details provided by the agent for the applicant, will be replicated throughout the development to provide for a level of design uniformity. The existing sod boundary to the rear (east) boundary is to be retained and supplemented where required with a 500mm high block wall to be constructed inside of same.

In this instance I recommend that a condition, requiring the retaining wall and boundary treatment to the rear (east) boundary to be constructed prior to commencement of development of the dwelling house, may assist in allaying the appellant's concerns in terms of the timescale for its provision and health and safety. Issues in terms of provision of the retaining wall outside the boundary of site no.7 immediately to the west and within the site to which of permission 11/ 713 refers, specifically the area along the access road and turning area, are matters for

resolution under the parent permission. Any issues pertaining to the retaining wall proposed to the rear of the dwellings to the south-west (including the appellant's dwelling) are covered by condition 5 attached to the permission pertaining to phases 2/3 under ref. ABP 303745-19.

7.3. Bond

Issues have arisen as to the requirements of condition 14 attached to permission ref. 11/713 in terms of a bond. Following further information, the applicant advised the planning authority that it was addressing the matter. The Estates Section of the Council accepted the response.

I consider that the issue of the bond is a matter for resolution by the planning authority under the provisions of the said parent permission and is not a matter for determination in this appeal.

7.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development within the development boundary of Baltimore on a fully serviced site, no appropriate issues arise and I consider that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the nature and scale of the development proposed within the development boundary of Baltimore and to the planning history on the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 18th day of December, 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. The proposed development shall comply with the conditions of planning permission register reference number 11/713 and the extension of duration of permission granted under register reference number 17/56 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

3. The retaining wall to be constructed along the southern site boundary and the boundary treatment and block wall along the eastern site boundary as delineated on the site layout plan Drawing No.7-02 received by the planning authority on the 26th August, 2019 shall be completed prior to commencement of construction works on the proposed dwelling.

Reason: In the interest of clarity and protection of amenities of adjoining property

4. The roof shall be of slate or flat tile and shall be dark grey or black in colour, only.

Reason: In the interest of visual amenity

5. Prior to commencement of development, the developer shall enter into water and/or waste water connections agreements with Irish Water.

Reason: In the interest of public health.

6. Site development and building works shall be carried out only between the hours of 0800 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 residential amenities of property in the vicinity.

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.

Pauline Fitzpatrick
Senior Planning Inspector

June, 2020