



An
Bord
Pleanála

Inspector's Report ABP-307129-20

Development	Permission to construct a two-storey dwelling house.
Location	Church Street, Douglas West, Douglas, Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	19/38739
Applicant(s)	Des Morris
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First party -V- Decision
Appellant(s)	Des Morris
Observer(s)	None
Date of Site Inspection	22nd July 2020
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The site is located on the northern side of Church Street in Douglas Village, immediately south of Douglas Village shopping Centre, to the west of a two-storey commercial building, north of and on the opposite side of the street from the Douglas Village Community Park and immediately adjacent to the multi-storey car park entrance to the shopping centre, in the south-eastern suburbs of Cork City. Access to the property is via an entrance off Church Street. The appeal site is open to the street, with a footpath between it and the street edge. There is also a bus-stop along the site frontage. The site presently operates as a surface car park for a taxi business.
- 1.2. The site itself is of rectangular shape and it extends over an area of 0.00995 hectares. Site levels are consistent with those of the street. The northern, eastern and western site boundaries comprise of metal railings with the southern boundary open to the street.

2.0 Proposed Development

- 2.1. The proposal would comprise the construction of a two-storey dwelling house of contemporary design, which would be orientated on an east-west axis. The footprint would be rectangular, and the design would incorporate large picture style windows on the southern and eastern elevations and lesser amounts of fenestration detailing on the northern and western elevations. A metal clad flat roof is proposed. Solar panels are proposed on the flat roof and the external finishes would comprise a smooth plaster. A balcony area is proposed at first floor level on the southern and eastern elevations to be accessed from the proposed kitchen/living/dining room areas.
- 2.2. Further Information submitted to Cork City Council on the 25th day of February 2020 included: Details of the location of a culvert that underlies part of the site, Details of maintenance of the culvert; Demonstrate that the culvert is suitably designed to maintain any weight proposed by the development; That access for maintenance of the culvert will not be restricted in the future; That the dwelling design be revised so that no part of the dwelling comes within two metres of the roadside edge. The submission of a site specific flood risk assessment; To omit the proposed off-street

car parking space and that the dwelling should demonstrate compliance with the Development Plan standards in terms of room sizes, storage space, provision of bicycle/refuse storage and private amenity space.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was refused for one reason as follows:

The proposed development is encroaching on both the access shaft to the existing river culvert and the space required adjacent to this access shaft to facilitate maintenance. It is considered that to permit the proposed development would adversely impact upon the ability to access and maintain this culvert, leading to a potential increase in flood risk. As such the proposed development is considered to be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer recommended that planning permission be refused following clarification on the matters raised within the further information request. The design and layout of the scheme was modified, whereby alterations to the dwelling design were made, the off-street car parking space omitted, greater private open space was also provided for.

3.2.2. Other Technical Reports:

- Roads Design: No objection, subject to conditions.
- Area Engineer: Raised concerns regarding access to the box culvert for maintenance purposes.
- Drainage: Refusal recommended due to access to inspection chamber of culvert being impeded

- Irish Water: No objections.

4.0 Planning History

I am not aware of any planning history specifically pertaining to the appeal site.

5.0 Policy and Context

5.1. Development Plan

Under the Cork County Development Plan 2014 – 2020 (CDP), Douglas is identified as a District Centre serving the southern suburbs of the city and the environs of the County site is located within the development boundary for the Carrigaline Local Area Plan (LAP) 2017. The site has an Existing Built up area zoning objective: To protect and provide for and/or improve the retail function of local centres and provide a focus for local services. Residential use is acceptable under this zoning objective. The site is also located within the West Douglas Street Architectural Conservation Area (ACA).

Relevant policies in the plan include the following: -

Objective 6.1: Residential Strategic Objectives

Objective 16.3: Urban Design

Objective 16.9: Sustainable Residential Development

Chapter 16 – Development Management also sets out standards for residential developments, of relevance is section 16.59 which relates to infill housing.

5.2. *National Guidance*

- Urban Design Manual, A Best Practice (DOEHLG, 2009)
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Design Manual for Urban Roads and Streets (DOEHLG & DTTAS, 2013, 2020 (as amended)).
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (DoEHLG 2009).

5.3. **Natural Heritage Designations**

None Relevant.

5.4. **Environmental Impact Assessment - Preliminary Examination**

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. This first party appeal is being made on behalf of Mr Des Morris, the owner of the site and the existing commercial development immediately west of the appeal site.

6.2. **Grounds of Appeal**

The main areas of concern relate to the following:

- The appellant has set out the planning history associated with the adjoining shopping centre (Planning Authority reference number 03/1426) including reference to a specific planning condition which required the construction of an inspection chamber to be provided on the culverted Ballybrack watercourse.
- An inspection chamber was to be provided to remove silt from the culvert and the developer (Canmount) was to be fully responsible for the cleaning and maintenance of the covered and open sections of the Tramore and Ballybrack watercourses.

- A legal agreement was drawn up between the appellant and the developer of the Shopping Centre (Canmount) whereby maintenance would be carried out from the Canmount side of the property.
- The appellant gave Canmount consent to construct the access chamber partially on his property *the current appeal site).
- It is stated that the inspection chamber has not be opened or cleaned since its construction in 2006, contravening planning condition number twelve of that 2003 planning permission.
- When the inspection chamber was designed, it was envisaged that mechanical diggers would be used to remove the silt, however a jet-vac system is now the preferred method for silt removal.
- It is stated that a subsequent planning application in 2008 ((08/9526) was made for the development of a single storey restaurant directly above the wall of the inspection chamber, this development was permitted by Cork County Council and upheld by An Bord Pleanála under PL 04.234936.
- The appellant grew up on the adjoining site and has a need for a house and is seeking to return to this location adjacent to his business.
- The City Council are encouraging urban living, lower carbon reliant residential development, which this development would support.
- When designing the proposed dwelling, care and consideration was had in relation to the inspection chamber. A 1.132 metres separation distance is proposed between the closest part of the proposed dwelling and the inspection chamber.

6.3. Planning Authority Response

Response received from the Water Services (Drainage) Section of the City Council reiterating the necessity for adequate access to the inspection chamber.

7.0 Assessment

7.1. I consider that this appeal should be assessed under the following headings:

- (i) Principle of development,
- (ii) Water Services and Flooding
- (iii) Appropriate Assessment.

In the interest of clarity, the assessment below relates to the revised development proposals for the proposed dwelling, submitted as the further information to the Planning Authority, unless otherwise stated.

7.2. Principle of Development

- 7.2.1. The appeal site is located within an area zoned as Existing built-up area within the current Carrigaline Local Area Plan 2017 where the principle of development a single dwelling at this location within Douglas village is acceptable. The dwelling would accord with the provisions of Section 16.59 of the Development Plan in relation to infill housing in that the design, layout, access and open space provision would accord with the standards as set out within the Development Plan.
- 7.2.2. I, therefore, conclude that the proposal would afford a satisfactory standard of amenity to future residents and that it would be compatible with the pattern of development in the area.

7.3. Water Services and Flooding

- 7.3.1. The proposal development would connect into the existing public foul sewer and watermain system. I note that Irish Water outlined no objections to the proposed services connections.
- 7.3.2. A site-specific flood risk assessment was submitted as part of the further information response. This report acknowledges that part of the appeal site is identified as being within Flood Zone A within the River Lee CFRAMS report, where a high risk of fluvial flooding is identified. Section 3.1.1 of the site-specific flood report (SSFR) acknowledges that a flood event occurred within Douglas Village in November 2009 on the Ballybrack stream where existing culverts were blocked with debris, and a more recent flood event within the settlement in June 2012. The SSFR notes that the dominant source of flooding at Church Street is from fluvial flooding as per the findings within the flood modelling prepared by Arup Consulting Engineers as part of

the Douglas Flood relief scheme. The SSFR states that the site is not impacted by tidal flooding to the same extent as fluvial flooding.

- 7.3.3. The Water Services (Drainage) Section of Cork City Council noted: The existing Ballybrack stream culvert runs underneath the eastern end of the proposed development site. There is an access shaft into the culvert, the manhole cover of which is partially within the boundary of the proposed development site. It is critical for the maintenance and operation of the culvert that suitable access to the inspection chamber be maintained at all times. A minimum of three metres clear distance should be maintained between the manhole cover and any proposed development. It is clear that this cannot be achieved in this instance. This recommendation has been corroborated by the Douglas Area Engineer.
- 7.3.4. A residential use is one that is identified as being highly vulnerable as set out within Table 3.1 of the Flood Management Guidelines 2009 (FMG's). Given the location of the site within Flood Zone A, the fact that a highly vulnerable use (residential) is proposed, the preparation of a justification test is mandatory as per the FMG's. This is set out within Section 4.4.1 of the SSFR which outlines the following: This development will not have any adverse impacts on the watercourse, floodplains or any flood protection or management facilities. The drainage engineers report is at variance with this statement, as the Maintenance chamber would be encroached upon which would hinder access to remove silt from the culverted channel and therefore potentially increase the risk of flooding locally.
- 7.3.5. Notwithstanding the proposals to carry out flood relief works in this vicinity as part of the Douglas Flood Relief scheme, whereby the development site would then be located within defended lands as set out within Figure 3.8 of the SSFR, I am not satisfied that the proposed development would establish a desirable precedent, given that the recommended separation distance of three metres between the maintenance chamber and dwelling cannot be achieved. Therefore, I am satisfied that the restriction of access to the access shaft could result in a build-up of silt material and, therefore, increase the risk of flooding in an area which is already at high risk of flooding, as identified within the SSFR submitted by the appellant.
- 7.3.6. I note the appellant has given an undertaking to implement a number of flood mitigation measures in the event that planning permission is granted. These include,

constructing the ground floor level of the dwelling at 4.73 Ordnance Datum, 230mm above the highest predicted flood level predicted by Arup Engineers within their 1 in 100-year flood modelling. Other mitigation measures proposed include erecting demountable flood barriers on the front door to be put in place in the event of any flood warning. the storage of flood bags to the rear of the property to be put in place in advance of any flood event, the inclusion of non-return valves on surface water outlets, signing up to the City Councils flood warning service. However, best practice recommends against permitting development on defended lands as this can potentially compromise the flood defence measures

- 7.3.7. In conclusion, having regard to the design and layout of the development proposals which would encroach on a culvert maintenance access chamber and the space required adjacent to such chambers to facilitate access and maintenance, that the proposed development could increase the potential of flood risk and would therefore be contrary to the proper planning and sustainable development of the area.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the following reason:

9.0 Reason (s).

Having regard to the location of the site in an area which is prone to flooding and on the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the proposed development would not give rise to an increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

Fergal O'Bric

Planning Inspector

24th July 2020