



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307139-20

#### Development

Construction of a four-bed family home over two levels (ground and lower ground floor level), car port, driveway and hardstanding from existing vehicular entrance, connection to public services and on-site surface water attenuation and all associated site works.

#### Location

Site adjacent to The Manse, Ardbrack, Kinsale, Co. Cork

#### Planning Authority

Cork County Council

#### Planning Authority Reg. Ref.

1906151

#### Applicant(s)

Siobhán Coen.

#### Type of Application

Permission .

#### Planning Authority Decision

Grant permission subject to conditions.

#### Type of Appeals

Third Party

#### Appellant(s)

Joanna Gill

Richard Laws

Adbrack Heights Limited.

**Observer(s)**

None

**Date of Site Inspection**

31<sup>st</sup> July 2020.

**Inspector**

Bríd Maxwell

## 1.0 Site Location and Description

- 1.1. The appeal site is located circa 1km to the east of the centre of Kinsale within the townland of Ardbrack. The site enjoys an elevated position overlooking Kinsale Harbour to the south and is on the southern side of the road between the town and Summercove. The site is adjacent to a mature residential property, The Manse and comprises a steep south facing slope extending to the rear of Ardbrack Heights, a linear development of four storey terraced apartment blocks built in the 1960s overlooking Kinsale Harbour. On the upper side of the road are a ribbon of single storey dwellings of various age and style fronting onto a service road. The appeal site shares an entrance recess with the adjoining Manse property and is bounded by a sod and stone ditch at roadfront. The site is steeply sloping with a fall from 47.15m OD at the north-eastern part of the site at road frontage to spot level of 33.4m OD towards the southern part of the site. The site is currently largely overgrown and inaccessible with large areas of gorse, grasses and brambles. The southern boundary of the site is defined by an access road serving a dwelling to the south east and the Ardbrack Heights development is to the south.

## 2.0 Proposed Development

- 2.1. The proposal seeks permission for a contemporary two-storey flat roofed dwelling structure with all ancillary site works. The proposed dwelling is set back circa 18.4m from the roadway while the car part is provided towards the north-eastern end of the site with parking for up to 4 cars (two within the car port and two overhead). The design is split level and set into the hill with semi basement lower level. The proposal includes pumped discharge of foul sewer to the public sewer.
- 2.2. In response to the request for additional information a report by John Dinneen and Associates, Consulting Engineers outlined that in consultation with McConnell Piling and Foundations Ltd a solution was devised to address the issue of slope stability and the capacity of the underlying ground conditions to bear the additional loading of the dwelling. The slope stabilisation solution comprises rock fall catch fence and soil nails and rock bolts with a full coverage of rock fall netting to ensure no rock slippage or building materials will fall onto the private road to the south. To ensure no

undermining of High road a row of 350mm diameter bored vibrationless CFA contiguous piles will be installed prior to any excavation works.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

By order dated 24<sup>th</sup> March 2020, Cork County Council issued notification of its decision to grant permission and 8 conditions were attached which included the following:

Condition 1. Development Contribution €5,240.86

Condition 2 Roof covering shall be green living sedum roof and there shall be no change in roofing material without prior written consent.

Condition 3. Construction management.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

Planner's report considers that further information required regarding site stability. Photomontage images required to support the statement that the proposal will have small impact from Ardbrack Higher road as there is a designated scenic route and to ensure that the roof does not cut in on harbour view. Further detail required regarding finishes.

Following further information request Planner's report recommends permission subject to conditions.

##### **3.2.2. Other Technical Reports**

Area Engineer's report notes third party concerns regarding slope stability. A 2015 collapse to Ardbrack Heights car park was as a result of slope failure of a largely unsupported earth embankment following an extraordinary rainfall event.

Prescribed Bodies

Irish Water - No objection subject to connection agreement.

### 3.3. **Third Party Observations**

Submissions from Murphy Condon Solicitors on behalf of Ardbrack Heights Limited, Jeremy Greene, 17a Ardbrack Heights, Catherine Crowley Kennedy, 16a Ardbrack Heights, Richard Laws 17b Ardbrack Heights, Joanna Gill 2b Ardbrack Heights. The submissions raise common concerns in respect of the proposed development with regard to the stability of the cliff face. Notable collapse during construction /redevelopment of the Manse has resulted in a requirement for major shoring up of one section of the cliff face at significant cost to the Ardbrack Heights residents.

### 4.0 **Planning History**

**194426** Application for four-bedroom family home over two levels. Withdrawn prior to determination.

**096566** Refusal of permission for construction of a three-bedroom single storey over basement partially submerged and concealed dwelling. History details have not been provided to the Board however the planner's report outlines that refusal reason was in relation to concerns in respect of destabilisation of the embankment.

#### **Adjoining site to the west.**

**212331 05/1239** Refusal of permission for private dwelling provide new vehicle entrance and associated site works. Refusal for the following reason It is considered that the proposed development would conflict with the objective set out in the current Development Plan for the area, to preserve the attractive "green fingers" of land separating the villages of Scilly and Summercove from the main town which objective is considered reasonable. The proposed development would set an undesirable precedent for similar type development and would, therefore, be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The Cork County Development Plan 2014 refers and Bandon Kinsale Municipal District Local Area Plan 2017 refer.

Within the Bandon Kinsale Municipal District Local Area Plan 2017 the site is within the Kinsale Environs Development Boundary in an 'existing built up area'.

KS-GO-02 "Retain the green fingers of land separating the villages of Scilly and Summercove free from development as these are integral to the landscape setting of the town."

3.3.3 *"It is an objective of the County Development Plan 2014 to protect and enhance the natural and built heritage assets of the walled, medieval coastal settlement and to facilitate the development of Kinsale as one of the county's principal tourist attractions. Future development will need to respect the historic town centre and the town's sensitive scenic and coastal setting."*

The site is located within a High Value Landscape which is the category of landscape character type which is of county or national importance and considered to be the most valuable landscapes.

Relevant objectives within the County Development Plan include :

GI6-1 Landscape "to protect the visual and scenic amenities of Cork's built and natural environment....."

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"

The adjoining public road, Higher Road is a designated scenic route S61 and the site is also visible from scenic route S62 which runs along the opposite side of the harbour on the approach to the town from Western Bridge.

**Objective 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.

**GI 7-2: Scenic Routes**

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this plan. The scenic routes identified in this plan are shown on the scenic amenity maps in the CDP Map Browser and are listed in Volume 2 Chapter 5 Scenic Routes of this plan.

**GI 7-3: Development on Scenic Routes**

a) Require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such areas, the appropriateness of the design, site layout, and landscaping of the proposed development must be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.....

**GI 7-4: Development on the approaches to Towns and Villages**

Ensure that the approach roads to towns and villages are protected from inappropriate development which would detract from the setting and historic character of these settlements.

**5.2. Natural Heritage Designations**

The site is not within a designated area. The closest such sites are

Sovereign Islands NHA circa 5km to the southeast.

Old Head of Kinsale SPA c 10km south.

Courtmacsherry Bay SPA 12km to the southwest.

Courtmacsherry Estuary SAC

### 5.3. EIA Screening

6.0 Having regard to the limited nature and scale of the development and nature of the receiving environment no likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can therefore be excluded at preliminary examination.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

There are three number third party appeals by Joanna Gill, 2b Ardbrack Heights, Richard Laws, 17b Ardbrack Heights and Ardbrack Heights Ltd. The grounds of appeal raise common objection to the development summarised as follows:

- Ardbrack heights is in a high susceptibility class for landslides (two recent 26/12/2015 and 02/04/2016) as set out in letter from Geological Survey of Ireland, Extreme groundwater vulnerability.
- Geological bedrock composed of extensively fractured mudstones and sandstones containing several sets of closely spaced discontinuities. This include joints and closely spaced cleavage and bedding planes. Additionally, there is potential for fault planes to be present in various orientations.
- The structural geological style in collaboration with the topographical setting and recent and past climatic history has resulted in the bedrock being moderately to highly weathered throughout. Weathering in this type of bedrock can penetrate to substantial depths and affect the integrity of the bedrock in the downslope area.
- Sewage treatment and disposal and surface water disposal of concern.
- Development works in the immediate area adjacent to the north of the rockface may impact on the stability and integrity.
- Issue of stability is illustrated in expert witnesses reports attached include
  - Submission from Geological Survey Ireland, Department of Communication Action and Environment, dated 27 November 2019.

- Preliminary Report on Stabilisation of the cliff face at Ardbarck Heights Kinsale, dated 10<sup>th</sup> August 2001, compiled by Bernadette Janexzek Chartered Engineer Michael Punch and Partners.
- Geological Survey of a slope at Ardbrack Heights Kinsale March 1999, Dr A P Beese, Consultant Geologist, Carraigex Ltd.
- Geological Survey of Rock Slope at Ardbrack Heights, Kinsale. April 1990 Dr A P Beese, Consultant Geologist.
- Site Investigation report Ardbrak Heights Apts. Geotech Specialists Ltd. for Thomas J O Brien and Associates Consulting Engineers, July 1999.
- Additional comments on Hydrogeology of slope at Ardbrack Heights Kinsale Co Cork. Dr A P Beese, Carraigex Ltd. June 2002.
- Submission of Dr Ivor A J MacCarthy, Consultant Geologist, 5<sup>th</sup> April 2020 specifically regarding this application asserts that a regional scaled cross section profile V-H running from the main road above the proposed building to Ardbrack Heights apartment building would be desirable showing the building and its foundations. Key concerns arising include:
  - Design of the proposed treatment and disposal of wastewater on and potentially off the site
  - Design of the sewage treatment facility on the property. Design of surface water drainage.
  - Development works in the immediate adjacent area to the north of the rockface may impact further on the stability.
  - Rock anchors and mesh provided to contain loose rock demonstrate considerable accumulation of small rock.
  - Works on the proposed site could pose an extreme risk to property residents and traffic.
  - Potential for increased runoff and flooding and further destabilisation of the rock face
  - No mitigation measures in conditions imposed by the local authority.

## 7.2. Applicant Response

7.2.1 The response on behalf of the first party by HW Planning and is accompanied by a site-specific geological assessment by Carraigex Consulting Geologists, an Engineering submission by John Dinneen and Associates, Consulting Engineers and full details of the proposed green sedam roof by Lantech soils. Response is summarised as follows:

- Proposal will not result in any impact on rockface integrity or on groundwater vulnerability.
- The proposed development and geotechnical interventions proposed by McDonnell Piling and Foundations, MPF and Geoman Consultants have been specifically designed in response to a site-specific geological assessment prepared by Carraigex Consulting Geologist which accompanied a previous application on the site in 2009. MPF and Geoman Consultants are industry leaders in geotechnical matters and specialise in providing solutions on ground stability issues on challenging sites.
- Site specific slope stabilisation solution was provided in response to the request for additional information and deemed sufficient as set out in report of the Council's Area Engineer.
- Note report by Dr A Beese of Carraigex Consulting April 1999 which categorically states that a development at the site can be accommodated and will improve surface water drainage in the area.
- The proposed development is consistent with all relevant planning policies and objectives and will provide a high quality and sustainable dwellinghouse.
- Cut slope behind the terrace at Adbrack Heights is separate from the proposed development and that there will be part of the natural slope and private road between the two sites.
- Foul waste will be pumped to the public sewer on High Road.
- Storm water sun off will discharge to an onsite soakaway deigned in accordance with Digest 365. The contributing area of roof runoff is 297sq,m the access drive will be constructed in permeable paving so that existing flow

paths will be maintained. The drainage for the dwelling will in fact result in less surface water flowing down the slope to the private road.

### **7.3. Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

## **8.0 Assessment**

8.1. The key issues raised by the appeal can be addressed under the following broad headings.

Principle of the proposed development

Design layout and visual impact

Ground stability

Surface water and wastewater

Appropriate Assessment

### **8.2 Principle of development.**

8.2.1 The site is located within the settlement boundary and within the area designated as 'existing built up area'. The immediate area is residential in character and is characterised by low density residential development on individual housing sites as well as the Ardbrack Heights apartment complex. The site is also however located within a high value landscape and adjacent to a designated scenic route S61 and visible from Scenic Route S62 on the opposite side of the harbour. Whilst the high value landscape designation and visibility from the designated scenic routes do not represent an objection in principle to development rather the designation seeks more generally to protect the views and landscape from inappropriate development.

8.2.2 In relation to general local plan objective KS-GO-02 “Retain the green fingers of land separating the villages of Scilly and Summercove free from development as these are integral to the landscape setting of the town, I note that the precise location of these green fingers are not defined however it is suggested by the local authority planner that they are located outside the settlement boundary. I note however that the Board in its decision on previous case 212331 (05/1239) refused permission on the adjacent site to the west on the basis of conflict with the objective to preserve the green fingers. I consider that this it is reasonable to conclude that the site is within the green fingers and this requires further consideration in relation to design and visual impact.

### **8.3 Design and Visual impact.**

8.3.1 The site is located on a prominent and elevated position overlooking Kinsale Harbour. In views from the designated scenic route S62 (refer to View 1 of submitted photomontage) the Ardbrack Height apartment development is a significant prominent feature which draws the viewer’s attention arising from the balance of built elements to natural elements. The appeal site functions as part of a welcome green finger intermittent backdrop while further unfavourable skyline development acts as its backdrop. I consider residential development on the appeal site and in the immediate vicinity of the Ardbrack Heights development will significantly deplete the assimilative capacity of the landscape and add to the significant visual erosion within this designated high value landscape and have a detrimental visual impact on the designated scenic view. The proposed dwelling whilst of a high-quality standard and designed to set into the site involves significant site alteration in terms of cut and fill. The dwelling extends across the site for a distance of 23m (parapet) and 10m deep. When viewed from the southerly harbour direction the proposed dwelling will be visible at full height 8.9m above ground level. This elevation includes the use of grey render, stone facing and extensive areas of glazing which would be highly reflective. and thus highly visible from the designated scenic route to the east. The proposed dwelling of 254sq.m has a substantial footprint on the site with little opportunity for assimilative landscaping given the context and terrain. Having considered the detailed design of the proposal I have concluded that the proposed development is

beyond the carrying capacity of the site and would adversely impact on the visual amenities of the area when viewed from the town centre and the S62.

8.3.2 As regard the visual impact from the designated scenic route S61, I have a number of concerns. The appeal site provides for spectacular views from the S61 to Kinsale Harbour and the undeveloped nature of the site provides for a welcome relief from the surrounding built up area. While the design seeks to set the development into the hill the provision of the access road and boundary treatment will and car port (with parked cars overhead) will create an obtrusive visual impact in views of the harbour from the adjacent scenic route. I consider that the proposal would thereby undermine a key aim of the development plan which seeks to retain the green fingers of land separating the villages of Scilly and Summercove which are integral to the landscape setting of the town and to protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this plan.

8.3.3. I consider that the development of the site in itself and by reason of the precedent it would set for development on the balance of undeveloped land would defeat the planning authority's objective to maintain the separation of developed areas around Scilly, Summercove and the town of Kinsale. This objective is important in relation to the safeguarding of the scenic values that contribute to the attractiveness of Kinsale. On this basis I consider that refusal is warranted. I note that this is a new issue not raised within the grounds of appeal.

#### **8.4 Ground stability.**

8.4.1 The issue of ground stability is the key concern raised within the third-party appeals. The first party notes the site-specific mitigation proposed involves a slope stabilisation solution consisting of rock fall catch fence and soil nails and rock bolts with a full coverage of rock fall netting. In order to ensure no undermining of the public road to the north of the site a row of bored vibrationless continuous flight auger piles will be installed to protect the road. I note the expertise and credentials of McDonnell piling and foundations and Geoman consultants as set out in the first party response to the appeal. I consider that an engineered solution to the instability

of the rock face is feasible however I would also not that the extent of works increases the visual impact of site development.

## **8.5 Servicing**

8.5.1 On the issue of drainage I note the proposal to provide an on-site soakaway to discharge storm water from the site. A sustainable drainage SuDS system is proposed with permeable paving to maintain existing flowpaths and a green roof to dwelling. I note that the first party claims that the designed drainage system will improve surface water run off to the private road to the south. As regards foul sewer, it is proposed to provide two pups, a duty and standby, to provide for 24hour storage to pump sump.

## **8.6 Appropriate Assessment**

8.6.1 Having regard to the separation distances involved to the nearest designated sites, and the residential nature of the proposed development in an established built up area which is served by urban drainage networks, I consider that no appropriate assessment issues arise and 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. It follows, therefore, that appropriate assessment and the submission of an Natura Impact Statement is not required.

## **9.0 Recommendation**

The appeal site is located in a designated scenic landscape on a prominent and elevated position overlooking Kinsale Harbour, adjacent to and visible from designated scenic routes S61 and S62. It is considered that the proposed development which would involve significant earthworks on this steeply sloping and prominent site would scar the designated landscape the preservation of which is a stated policy of the planning authority and would result in the degradation of the views from the designated scenic route S61 and S62. The proposed development would therefore detract from the visual amenities of the area and contravene

materially the policies of the County Development Plan which are considered reasonable.

### **Reasons and Considerations**

It is considered that the proposed development would conflict with the objective set out in the Bandon Kinsale Municipal District Local Area Plan to “retain the green fingers of land separating the villages of Scilly and Summercove free from development as these are integral to the landscape setting of the town” This objective is considered reasonable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

It is considered that the proposed development, by reason of its prominent location and extreme sensitivity in a scenic coastal landscape in the foreground of views from a scenic route S61, and in views from Scenic route S62, both of which are designated as such in the County Development Plan, would be intrusive in views from the public road and other publicly accessible vantage points. The proposed development would, seriously injure the visual amenities of the area, would conflict with the development plan objective to protect the character of those views and prospects obtainable from scenic routes and would therefore be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell  
Planning Inspector  
6<sup>th</sup> August 2020