



An
Bord
Pleanála

Inspector's Report ABP 308323-20

Development	Construction of a dwelling house and all necessary site works
Location	91 Radharc Na Bhaile, Bandon, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/5528
Applicant	Jonathon Desmond
Type of Application	Permission
Planning Authority Decision	Refused permission
Type of Appeal	First Party against refusal
Appellants	Jonathon Desmond
Observers	Phil Deney
Date of Site Inspection	8 th December 2020
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.1. The site forms part of an established housing estate of approx. 96 dwelling units which is located within the northern suburbs of Bandon. No.91 is a detached two-storey dwelling at the end of a cul-de-sac within an estate comprising a mix of detached, semi-detached and terraced dwellings. The appeal site relates to the side garden of this property, which is to the south of the existing dwelling house. The cul-de-sac comprises a row of houses on each side which are orientated east west, with the turning head at the southern end. Immediately to the south lies a housing development, Knockbrogan Terrace, which runs perpendicular to the cul-de-sac and is at a much lower level. The third-party observer occupies No. 14 Knockbrogan Terrace which abuts the southern boundary of the appeal site.
- 1.1.2. The site, which is roughly rectangular in shape, has a stated area of 0.065 hectares. It slopes steeply from north to south with falls of approx. 4.6 metres over a distance of c.14 metres. There is an existing retaining wall along the southern site boundary. The site boundary includes lands to the south of the turning head and the western boundary is with a similar side garden to No. 92 on the opposite side of the cul-de-sac. A tall dense hedgerow has been planted along the fence-line at the southern end of the turning head.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the construction of a 2-storey dwelling house in the side garden of No. 91 Radharc an Bhaile. The proposed dwelling is detached with a stated floor area of 560m² and a ridge height of 8.132m. The proposed FFL of the house is 99.37m. It is proposed to access the site from the turning area of the cul-de-sac and to provide a new wall and pillars between the existing front boundary and the new entrance (3.65m wide). The ground levels fall away to the south and it is proposed to cut and fill in order to provide a level platform for the house and the driveway to the front and the rear garden to the east. It is proposed to build two retaining walls, one to the front and one to the rear of the proposed dwelling, which would project to the west by c.14.8m and to the east by c.9.5m of the house. The western retaining wall would be indented with a set of steps connecting the upper and lower garden levels at the western end.

2.1.2. The proposed dwelling would have three bedrooms. It would be separated from the existing house by c. 2.2m and from the southern retained boundary by c.8.8m. The proposed development includes the relocation of an existing shed from the rear of the proposed house to the rear of the existing house (No. 91). It is proposed to connect to the public water supply and to the existing wastewater system.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The P.A. decided to refuse planning permission for one reason. In summary, the main points are: -

- Having regard to the location and topography of the site, to the design and scale of proposed dwelling and to the established pattern of development on adjoining lands, the proposal would seriously injure the residential amenities of adjoining property by reason of overlooking, loss of privacy and would be overbearing.
- The proposal would not visually integrate into the surrounding landscaping when viewed from the south as it is a natural buffer between Knockbrogan Terrace (running E-W) and Radharc an Bhaile (stepping uphill in a northerly direction). The proposal would, therefore, be visually obtrusive development and would seriously injure the amenities of the properties in the area.
- The proposal would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report dated 10/09/20 notes the planning history of the site, the contents of the technical reports and reports from the prescribed bodies summarised below, as well as the issues raised in the third-party objection. There was no objection in principle to the development of a house in the side garden subject to normal planning considerations.

3.2.2. The applicant's statement that the site was formerly planned as an area of public open space but was subsequently incorporated into the landholding of No. 91, was noted and it was considered that this substantiates the view that it was intended as a landscape buffer between the older Knockbrogan Terrace to the south and the new housing estate. It was considered that the buffer zone should be retained as the site is prominently visible from various vantage points around Bandon. Concern was expressed regarding the length and height of the retaining walls to the east and west of the proposed house. Although it was acknowledged that significant improvements had been made on the previous applications, the impact on the properties to the south at Knockbrogan Terrace, having regard to the separation distance and significant difference in levels, were considered to be unacceptable.

3.2.3. **Refusal** of permission was recommended.

3.3. **Other Technical Reports**

3.3.1. **Area Engineer's report** – recommended deferral. FI required regarding the gradient at the entrance, details and levels of the proposed driveway/parking area and details of the sewer pipe network for foul and storm sewers.

3.3.2. **Estates report (08/09/20)** – recommends refusal for same reason as 18/4580.

3.4. **Prescribed Bodies**

3.4.1. **Irish Water** in a letter dated 03/09/20 raised no objection subject to connection agreements and capacity requirements.

3.5. **Third Party Observations**

One objection received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3rd Party observations received and summarised in section 6 below.

4.0 **Planning History**

ABP.303874-20 – permission refused for a similar development in June 2019.

18/4580 – Permission refused by P.A. for a similar development

5.0 Policy Context

5.1. Cork County Development Plan 2014

Chapter 3 – Housing – Existing Built-Up Areas include all lands within a development boundary which do not have a specific zoning objective. It sets out the housing policies and objectives including the following:

HOU 3-1 Sustainable Residential Communities – reference to national guidance on achieving high quality neighbourhoods.

HOU 3-2 Urban Design – high quality design and layout required.

HOU 3-3 Housing Mix – Intention to seek a mix of house types and sizes in accordance with the Joint Housing Strategy and National Guidelines.

Notwithstanding the desire to achieve higher densities (as set out in the Sustainable Residential Development in Urban Area Guidelines), it is acknowledged that there is a need to allow some lower density development in order to achieve a broader range of house types, particularly where there is a high demand for development in unserviced rural areas.

HOU 4-1 Housing Density on zoned lands – The site is designated as ‘Medium Density B’, with a recommended minimum of 12/ha net density and 25/ha maximum.

5.2. Bandon Kinsale District Local Area Plan 2017

- 5.2.1. Bandon is designated as a Main Town. The site and the Radharc An Bhaile housing estate are zoned Existing Built-up Area – Residential.

5.3. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

In order for small towns and villages to thrive and succeed, it is stated that their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. New development should contribute to compact towns and villages and offer alternatives to urban generated housing in unserviced rural areas. The scale should be in proportion to

the pattern and grain of existing development. In terms of densities, centrally located development in small towns and villages could achieve densities of up to 30-40 dw/ha., whereas edge of centre sites should achieve 20-35 dw/ha. However, in order to offer an effective alternative to single houses in the surrounding countryside, it may be appropriate in a controlled situation to allow a density of 15-20 dwellings at the edge of a town or village, provided that it does not represent more than 20% of the housing stock of the village.

5.4. **National Planning Framework (2018)**

The NPF seeks to focus growth in cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

5.5. **Natural Heritage Designations**

Courtmacsherry Bay SAC (site code 001230) and Courtmacsherry Bay SPA (Site code 004219) approx. 12km to the southwest.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The First Party Appeal includes several photographs with associated maps which are labelled as Exhibits and several documents which relate to the decision of the planning authority and to the planning history on the site.

6.1.2. The main grounds may be summarised as follows:

Principle of development – There is a shortage of housing in Ireland and the Government is promoting the use of infill sites in established residential areas with existing amenities and services. The estate is in an established and fully serviced residential area, which is within close proximity of the town centre and all its amenities. The site very large, at 0.065ha, which is significantly larger than the typical site area within the estate of 0.02ha and is therefore suitable for infill development. The proposal also complies with the policies set out in the Sustainable

Residential Development in Urban Areas Guidelines and with the zoning and policy objectives of the County Development Plan.

Compliance with original estate permission – the permission for the estate was granted in 2004 and in the original application, the site was shown as part of the public open space for the estate. However, the planning authority had advised not to use this area as open space as it could result in an area which promoted unsociable behaviour. As a result, the building contractor ceded part of this land to the applicant. The applicant is therefore the full freehold owner of the site. Reference is made to Drawing Nos. JD20-012A/B, which it is stated show the lands as designated POS. However, the Board should note that the copies of the drawings are not included with the grounds of appeal. It is disputed that any commitment was ever given not to build on these lands.

Scale and form of design – The proposal has been significantly reduced in size and has been redesigned to match the existing houses in the estate. The height of the proposed dwelling has been reduced by 630mm and the distance from the southern boundary has been increased to 8.8m (an increase of 1.4m). An extension to the existing dwelling, if within the exempted development criteria, would only need to be 11m away from an adjoining dwelling. It is confirmed that No. 91 has never been extended.

Visually obtrusive and overbearing – It is clear from the photographs from Knockbrogan Terrace that the existing dwelling is barely visible as it is well screened by existing vegetation and that the proposed dwelling would not be obtrusive. The design of the proposed dwelling is now in accordance with the design of the existing dwellings in the estate. Although there are slight differences in depth and width, these can be revised to mirror the main dwelling on the site if deemed necessary by the Board. The amount of fill is significantly less than indicated in the planner's report, being between 1.0-1.4m as opposed to 3.0m.

Residential amenity – the proposed dwelling would be 30 metres away from the existing terraced dwellings at Knockbrogan Terrace and as they are located to the south, there would be no loss of light involved. There would be no loss of light to the properties to the east or west due to the significant distances involved (90m and 47m

respectively). The existing dwelling on the site (No.91) has only one south-facing window which is to a shower room/WC and the applicants own the property.

Overlooking and loss of privacy – the windows on the southern elevation have been removed apart from one bathroom window which would be fitted with opaque glass. If necessary, this window can be removed. There would be no overlooking or loss of privacy to any of the properties on adjoining lands. The windows in the southern elevations of Nos. 62-69 Radharc an Bhaile, respectively all overlook the properties in Knockbrogan Terrace.

Access – the site is at the end of a cul-de-sac which also serves as a turning area. The proposed entrance is from the southern end of the turning circle and has a stated width of 3.65m. However, the proposed entrance could be relocated 3 metres further to the east if necessary. Adequate parking and turning areas will be provided on site.

Precedent – The P.A. has granted permission for House Nos. 64, 65, 66, 67, 68 and 69 Radharc An Bhaile which have windows in the rear elevations facing Knockbrogan Terrace, which are approx. 32m away. These houses are entitled to construct extensions under the exempted development regulations which come within 24 metres of the common boundary. However, the south elevation of the proposed dwelling house would be just 30m away from this terrace.

6.2. **Planning Authority Response**

The P.A. has not responded to the grounds of appeal.

6.3. **Observations**

6.3.1. Observations were received from Phil Deny, of 14 Knockbrogan Terrace, who states that he is spokesperson for the residents of Knockbrogan Terrace.

6.3.2. The main points of these observations may be summarised as follows:

The proposed development has been rejected on three occasions, by the planning authority under Ref. 18/04580 and 18/07341, and by the Board under 303874-19.

Will the developer keep applying for permission until he is successful?

Due to the topography of the site, which is challenging, the design and scale of the development is incongruous.

The proposal would cause serious overlooking and be injurious to existing residential amenity.

The proposal, if permitted, would give rise to an undesirable precedent.

When Radharc an Bhaile was built some years ago, the residents of Knockbrogan Terrace were assured that this development would not encroach any closer on the boundary.

The proposed house is located between the boundary walls of Knockbrogan Terrace and the extension that the applicant has constructed to the side of his house. It will be very imposing and will have a significant negative impact and will affect property values.

7.0 Assessment

The Board has made a determination as recently as May 2019 for a similar development proposal on this same site, in which the principle of development was accepted. As there have been no material changes to policy or on the ground in the intervening period, it is considered that it would be appropriate to focus on the material changes in the proposed development in terms of whether the reasons for refusal have been adequately addressed. I consider that the issues arising can be assessed under the following headings:

- Impact on visual amenities of the area
- Appropriateness of scale, form and design of development
- Other matters
- Environmental Impact Assessment
- Appropriate Assessment

7.1. Visual amenities of the area

- 7.1.1. The topography of the area is very steep and the hillside upon which the Radharc an Bhaile housing estate has been constructed is prominently visible from much of the

town and surrounding countryside. The terraces with their North-South ridge lines are quite striking, particularly when viewed from the town and in contrast to the E-W orientation of the Knockbrogan Terraces to the south. I would concur with the Area Planner that the natural greenspace to the south of the terraces which step up the hillside was probably intended as a visual landscape buffer to help to integrate the housing development into the landscape, and to soften the impact on the pre-existing terrace below. From the information provided by the first party, it would appear that the site was originally intended as public open space, but was later ceded to individual property owners, along with the equivalent area to the south of No. 92. The stated reason for doing so was a concern that these lands would facilitate anti-social behaviour.

7.1.2. The size of the site at 0.065ha is considerably larger than that of other sites within the housing estate, which generally have an area of 0.02ha. However, as pointed out by the Inspector in the previous appeal (303874-19), the site has significant challenges and limitations, not least of which is the steeply sloping ground to the south. The levels fall by approx. 4.6m over a distance of 14 metres, but the relatively flat or level areas of the site are confined to approx. 4-5 metres adjacent to the existing dwelling, and a further strip at the southern extremity of the site, with a steep sharp drop in levels in the central area. The steep slope within the site has been planted with a copse of trees and shrubs.

7.1.3. It is considered that the site constraints are therefore quite challenging to provide a dwelling house that would not be overbearing when viewed from the terrace to the south and would not be visually obtrusive in the wider landscape. However, the applicant has revised the previous scheme and the effects of these revisions will be discussed in the following section.

7.2. Appropriateness of Scale, Form and Design of development

7.2.1. The previous scheme was considered to be problematic in terms of the design solution proposed, particularly the scale, bulk and massing which was considered to be excessive, and the views of the structure from the south (Knockbrogan Terrace). Specific elements of concern raised by the Inspector included the balcony and patio area which accentuated the bulk, the height differential of the structure and the retaining wall to the driveway which would be 3.7 metres in height over a distance of

14 metres. It was concluded that the design solution was unsuccessful in terms of its integration into the estate and that it would be overbearing when viewed from the south.

- 7.2.2. The design of the proposed dwelling is more in line with the established architectural style within the housing estate. The current proposal has reduced the floor area from 280m² to 156m² and the ridge height from 9m to 8.132m. The distance from the southern boundary has been increased by c.1.4m from 7.465m to 8.8m. It is considered that the bulk, scale and massing have been reduced in the redesign of the dwelling. However, this has largely been achieved by the omission of the attic accommodation (c.83.8m²) and the patio/balcony to the east, and by the reduction in the first-floor area by a further c.29m². The footprint of the dwelling has been reduced by just 17.12m², i.e., by 1.0 metre in depth (10.7m to 9.7m W-E), and by 630mm in width (N-S), and the ridge height by 868mm. However, the height above ground level is stated as 10.63m, which represents just an overall height reduction of 723mm.
- 7.2.3. It is considered, therefore, that the revised architectural style and reduced scale, mass and bulk ameliorate the impact of the development, particularly when viewed from the cul-de-sac and to a lesser extent from the terrace to the south. However, the proposed reductions in height and distance from the boundary are minimal and do not ameliorate the impact from the south to a sufficient degree. It is considered that the proposed development would, therefore, be overbearing and imposing when viewed from Knockbrogan Terrace, and that it would be visually obtrusive and overly prominent when viewed from various vantage points within the town and the surrounding area.
- 7.2.4. The proposed retaining wall to the front of the house (south of the proposed parking area) has been revised such that it incorporates a dogleg in the middle and a set of steps leading from the garden to the driveway. The length is given as 14.818m, which is slightly longer than the previous proposal. Although the height is not specified, it is represented as being considerably lower (estimated to scale at 2.4m) than the 3.7m of the previous scheme. However, the drawings state that the retaining wall would be 'To Engineer's Design', which means that the height is uncertain. The proposed retaining wall would also span the rear garden for a distance of c.9m, (at a height of c.3m) which is a further departure from the previous

scheme. It is considered that the retaining walls to the east and west of the proposed dwelling would form an incongruous feature in the landscape and would be visually obtrusive when viewed from Knockbrogan Terrace.

- 7.2.5. It is considered likely that the landscape and open space strategy for the housing estate had intended that the greenspace to the south of the estate would have provided a visual buffer which would have facilitated the integration of the development into the townscape character at this prominent hillside location. It is considered that the proposed development would negate the benefits derived from this buffer and would result in a visually obtrusive development which would seriously injure the amenities of the area. Furthermore, the proposal would create an undesirable precedent for similar development within the estate.

7.3. **Other matters**

- 7.3.1. **Access to site** – the Area Engineer considered that the gradient at the entrance should not be greater than 3% over 5.0m and stated that this needed to be clarified. Should the Board be minded to grant permission, it is considered that this issue should be addressed by way of a suitably worded condition.
- 7.3.2. **Relocation of garden shed** – it is proposed to relocate the existing large garden shed (c. 46m²) from the site of the proposed dwelling to the rear garden of the existing dwelling (No. 91). This large structure currently straddles the boundary between the two sites. However, it is noted that the red line boundary does not include No. 91 or its rear garden, although both sites are within the same ownership. It is considered that the new location for the garden shed will significantly reduce the useable area of the private amenity space to the rear of No. 91. It is noted that there is already a further large garden shed located along the northern boundary of this rear garden. It is considered that this would be detrimental to the residential amenities of the future occupier of the existing house. This matter has not been raised by any of the parties or by the planning authority, however, and would therefore be a new issue, which would require recirculation of relied upon as a reason for refusal.

7.4. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development within the development boundary of Innishannon village on serviced lands, 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 at preliminary examination and a screening determination is not required.

7.5. **Appropriate Assessment**

- 7.5.1. The site is located approx. 12km to the north of two European sites, Courtmacsharry Bay SAC and Courtmacsharry Bay SPA. There are no known hydrological links to the protected sites. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on brownfield and serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 **Recommendation**

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

9.0 **Reasons and Considerations**

Having regard to the prominently visible and elevated nature of the site, together with the steep topography of the surrounding area, it is considered that the proposed development by reason of its scale, form and design would result in an prominent and visually obtrusive feature which would be out of character with the established pattern of development in the area and would be overbearing and unduly imposing on properties to the south, notwithstanding the proposal to reduce the scale of the development of that refused by the Board under Ref. ABP.303874-19. The proposed development would, therefore, seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Mary Kennelly
Senior Planning Inspector
14th January, 2021