



An  
Bord  
Pleanála

## Inspector's Report ABP-308400-20

---

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Demolition of shed and construction of four dwellings |
| <b>Location</b>                     | Fisherman's Row, Baltimore, County Cork               |
| <b>Planning Authority</b>           | Cork County Council                                   |
| <b>Planning Authority Reg. Ref.</b> | 20/60   |
| <b>Applicant(s)</b>                 | Michael O'Driscoll                                    |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant   |
| <b>Type of Appeal</b>               | Third Party   |
| <b>Appellant(s)</b>                 | Patrick Gaffney                                       |
| <b>Date of Site Inspection</b>      | 8 <sup>th</sup> December, 2020                        |
| <b>Inspector</b>                    | Kevin Moore   |

## 1.0 Site Location and Description

- 1.1. The 0.138 hectare site is located on the southern side of Regional Road R595 at the eastern side of the village centre of Baltimore in West Cork. A local road is located to the south and rear of the site. The site slopes steeply upwards from the regional road to the rear. There is an existing shed at the north-west corner of the site and there is a dry stone wall along the regional road frontage beyond which there is a public footpath. The site is largely overgrown. There is a pair of semi-detached houses on more elevated ground to the east, the nearest of which is the appellant's property. There is a former schoolhouse to the west of the site which is in disrepair. Residential development in the form of terraced housing is located on the opposite side of the regional road and there is further housing on more elevated lands to the south of the site.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of four terraced houses, the demolition of the existing shed, the forming of a new entrance onto the public road, and associated site works, including the adjustment of ground levels. Each of the houses would be three bedroom units with a floor area of 101.03 square metres. The development would be served by mains water supply and public sewer. The houses would be developed close to the northern end fronting onto the regional road and the entrance would be developed at the north-western corner. Access from here would lead to parking for eight cars and to an area of open space. Each of the houses would have back garden space backing onto an amenity space and/or the internal road. Bin storage and bicycle parking would also be provided to the rear of the houses.
- 2.2. Unsolicited further information submitted on 4<sup>th</sup> March 2020 included a revised layout drawing and referred to open space provision replacing the proposed amenity/play area shown on the original site layout plan.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 16<sup>th</sup> September 2020, Cork County Council decided to grant permission for the proposed development subject to 35 conditions.

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

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

The Planner noted development plan provisions, third party submissions, and reports received. It was noted that the site is bounded by traditional and historic buildings, is on an important entry point into the village and in an area designated as high value landscape. Revisions to the building design and clarity on boundary treatment were recommended. It was considered that the proposal would not have significant impacts on the amenity of properties to the east. A request for further information was recommended.

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

The Area Engineer submitted that there were no engineering issues arising and recommended that permission be granted subject to a schedule of conditions.

The Estates report noted a significant volume of cut would have to be removed from the site to reduce ground levels, generating additional HGV traffic on the road network. Additional information was requested relating to boundary and surface treatment, increasing width between the development and an adjoining retaining wall to the east, clarity on common areas intended to be taken in charge, details on proposed retaining structures, details on volumes of materials to be removed, public lighting, foul sewerage, water supply, and surface water drainage.

The Conservation Officer had no objection to the proposal subject to a schedule of requirements being met including strategies for retaining the historic stone wall boundaries and existing vegetation.

The Environment Section had no objection to the proposal subject to two conditions.

### 3.3. **Prescribed Bodies**

Inland Fisheries Ireland stated it had no objection to the proposal provided Irish Water signifies there is sufficient capacity in existence so that it does not overload existing treatment facilities.

Irish Water requested further information on the foul sewer layout, an alternative surface water arrangement, and a pre-connection enquiry.

### 3.4. **Third Party Observations**

A submission was received from Vincent and Catherine Roantree welcoming the development and querying the address given for the proposed development.

A submission was received from Patrick Gaffney. The grounds of the appeal reflect the principal planning issues raised.

3.5. A request for further information was made on 18<sup>th</sup> March 2020 and a response was received on 20<sup>th</sup> August 2020.

3.6. The reports to the planning authority following the receipt of the information were as follows:

The Environment Section had no objection.

The Area Engineer had no objection.

The Estates Section had no objection to the proposal subject to a schedule of conditions.

The Conservation Officer had no objection.

The Planner considered the further information response to be acceptable and recommended a grant of permission subject to a schedule of conditions.

## 4.0 **Planning History**

I have no record of any planning application or appeal relating to the site.

## 5.0 Policy Context

### 5.1. West Cork Municipal District Local Area Plan

#### Baltimore

Baltimore is designated a 'Key Village' in the Plan. The site lies within the village's development boundary.

The strategic aim for the village is to encourage the consolidation of the village within its rural setting, protect the unique architectural character and coastal landscape setting of the settlement and to promote sympathetic development in tandem with the provision of services.

It is noted that the majority of housing development since 2005 has occurred in the form of holiday homes to the east of the village core.

It is stated that there is spare capacity in the water supply and wastewater treatment plant to cater for future growth in the village.

It is acknowledged that the village is in an area designated a High Value Landscape.

Development Boundary Objectives for the village include:

#### **DB-01**

Within the development boundary encourage up to 85 houses for full time occupation during the plan period.

#### **DB-02**

Protect and enhance the attractive coastal setting and landscape character of the village.

#### **DB-04**

Limited provision may be made for managed holiday home accommodation within the village where a need has been demonstrated, subject to normal proper planning and sustainable development considerations.

## 5.2. **Appropriate Assessment**

The site of the proposed development is located within the central serviced urban area of Baltimore at a location which is separated from Roaringwater Bay and Islands SAC (Site Code: 000101) by extensive buildings, infrastructure and other developments. Having regard to the nature, scale, and location of the proposed development, the serviced nature of the development, the nature of the receiving environment, and the separation distance to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as 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.

## 5.3. **EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The appellant is the owner of the semi-detached house adjoining the site to the east. The grounds of the appeal may be summarised as follows:

- The ridge height of proposed Dwelling A is almost as high as the appellant's property and will cause overlooking, loss of light, and amenity as the first floor windows of the dwellings will look into the existing house and garden. A solution is to increase the distance between Dwelling A and the appellant's boundary wall and to retain mature trees in the vicinity.
- The drawings/plans are inaccurate regarding height and lack of contiguous elevations, notably in terms of heights of eaves, ridge and first floor levels.
- Granting permission for dwellings without making it conditional that they are not holiday homes is contrary to the local area plan and the Planner's report.

- The proposed development will have an impact on the local bat population which needs to be protected.
- The proposed removal of material from the site may cause significant destabilising of the hillside and the rear of the appellant's garden and boundary wall. The nature of the underlying material should be established to dictate how it will be removed safely. The planning conditions make no reference to surveys, schedules and an obligation to make good damage caused.

A copy of the appellant's submission to the planning authority is attached with the appeal.

## 6.2. Applicant Response

The applicant's response to the appeal may be summarised as follows:

- The gable end of Dwelling A was increased to 1.85m at the narrowest point to 2.4m at its widest point from the retaining wall by way of further information. There is a clear drop in level of 2.174m between the ridge of the appellant's dwelling and Dwelling A. There can be no loss of light, view or amenity and there are no windows within the proposed development that would overlook the appellant's property.
- The submitted drawings are correct. There are no inaccuracies.
- With regard to Policy DB-01, there is room for further houses and there is no requirement to limit these to dwellings for full time occupancy. There is a strong argument that dwellings within the village development boundary should have flexible use.
- The ecological requirements for the site were fully assessed by the planning department.
- The extent of proposed retaining walls is evidence that full protection will be afforded to the adjoining properties and the proposed development. In addition, Condition 26 of the planning authority's decision requires full details of support works.

### 6.3. **Planning Authority Response**

The planning authority submitted that it had no further comments to make.

## 7.0 **Assessment**

### 7.1. Introduction

- 7.1.1. I consider that the principal planning issues relating to the proposed development are the principle of holiday home development, impact on residential amenity, structural stability, ecological impact, and adequacy of plans and application details.

### 7.2. The Principle of Holiday Home Development

- 7.2.1. In my opinion, this is a significant planning issue relating to the proposed development in the context of the proper planning and sustainable development of Baltimore. It is clear from the applicant's response to the appeal on this issue that there is likely some intent in seeking to develop the proposed houses for holiday homes, with the applicant submitting that there should be flexible use within the development boundary of the village. I consider that the development plan provisions, as set out in the West Cork Municipal District Local Area Plan relating to Baltimore, are key to addressing this issue.
- 7.2.2. I acknowledge at the outset that Baltimore is a significant tourist village, that the provision of tourist accommodation is important for the sustainability of this tourism destination, and that the demand for holiday home development in this village is significant.
- 7.2.3. When addressing population and housing, the Local Area Plan notes that the majority of housing development since 2005 has occurred in the form of holiday homes to the east of the village core. The Board will note that this is the location in which the proposed development would be sited. The Plan states that there is a high proportion of holiday homes in Baltimore and that in the winter many of these holiday



homes are vacant and the population of the village reduces significantly. The Plan expressly states:

*“Any new housing should be more orientated to local permanent housing.”*

- 7.2.4. Moving on from these provisions of the Plan, I note the Development Boundary Objectives for Baltimore. The first such objective is Objective DB-01 which states:

*“Within the development boundary encourage up to 85 houses for full time occupation during the plan period.”*

It is apparent that this objective supports the earlier provision of the Plan which referred to new housing needing to be more orientated to local permanent housing.

- 7.2.5. I further submit to the Board that another Development Boundary Objective for Baltimore, DB-04, supports the clear Plan emphasis on the need to control the volume of holiday home development, which could reasonably be understood to be in support of the intent to pursue more local permanent housing. This objective states:

*“Limited provision may be made for managed holiday home accommodation within the village where a need has been demonstrated, subject to normal proper planning and sustainable development considerations.”*

- 7.2.6. It appears from the Plan provisions that there is a strong need for more local permanent housing and that the continued development of holiday homes is having a significant impact on the delivery of permanent housing. I submit to the Board that the nature of holiday home development invariably influences the availability of land, as well as property values, and inevitably the ability to meet the genuine housing needs of a local permanent population.

7.2.7. It is my submission to the Board that there is a clear need to curtail the development of holiday home development in accordance with the distinct intent of the Local Area Plan in order to facilitate the suitable delivery of permanent housing to meet the needs of those seeking to reside permanently in Baltimore. It is clear that there has been no information provided in this application to demonstrate the need for further provision of holiday home accommodation at this time in this location. The Plan objective DB-01 will not be attained with continuing approvals for holiday home developments during the lifetime of the Local Area Plan.

7.2.8. In conclusion, I consider that it is reasonable to curtail the occupation of the proposed houses to permanent housing and to exclude their use as holiday homes in the interest of ensuring that the local housing needs in Baltimore are to be met and to be consistent with the provisions of the Local Area Plan.

### 7.3. Impact on Residential Amenity

7.3.1. The appellant has raised concerns about the height and layout of the proposed development adversely impacting by way of overlooking, loss of light, loss of view, and undermining of amenity.

7.3.2. In response to this, I first note the location, layout and design of the proposed development. The terrace of houses would be located forward of the building line of the appellant's house which is located to the east of the site. The gable end of the nearest proposed terraced house would be in excess of 15 metres from the western gable of the appellant's house. There would be no windows on the gable end of the nearest proposed terrace house. There is no issue arising with potential overlooking of the appellant's house in this urban location.

7.3.3. The proposed development would be located to the west of the appellant's property. The houses would be two storeys in height. There would be significant cutting to establish the footprint for the development and the finished floor level of the proposed houses would be substantially below the ground level of the neighbouring property to the east, as seen from the sections submitted to the planning authority.

The ridge height of the nearest proposed house would be in excess of two metres below that of the appellant's house. The nearest terraced house would be over 15 metres from the gable of the appellant's house. As a consequence of these provisions, the proposed development would not result in any notable overshadowing of the appellant's house and there would be no significant overshadowing of the appellant's property generally. I acknowledge that this location forms part of the eastern end of the built-up centre of Baltimore.

7.3.4. The appellant raises a concern about loss of a view. The Board will note that the protection of private views is not an issue for consideration.

7.3.5. Overall, I am satisfied to conclude that the proposed houses would not result in any significant adverse impact on the amenities of the property to the east of this site in this urban location.

#### 7.4. Structural Stability

7.4.1. I acknowledge that the proposed development would require excavation and removal of spoil from the site to accommodate the proposed development. The applicant's proposals include the removal of soils and other materials immediately adjoining the side garden of the appellant's property and to construct a retaining wall of some two metres in height over finished ground level along the site's flank boundary. It is my submission to the Board that this is an appropriate response to ensure the stability of the site boundary in the interests of accommodating the proposed development in order that it adequately integrates at this location and to ensure that the stability of neighbouring lands is not undermined. Such works are not particularly uncommon and should pose no structural threat to the appellant's house nor to the stability of the curtilage of that house. I submit to the Board that a precautionary approach to permitting the development as proposed could reasonably include a condition attached with any grant of planning permission requiring the overseeing of construction of the retaining features associated with the development by a Structural Engineer in seeking to curb any potential subsidence or other potential effects that could result from works near to the eastern boundary of this site.

## 7.5. Ecological Impact

- 7.5.1. I note the appellant originally raised concerns with the planning authority in relation to biodiversity, the loss of trees and the impact on the bat population in the vicinity. The impact on bats was raised in the appeal.
- 7.5.2. I note for the Board that this is a site within the urban centre of Baltimore. It comprises an overgrown plot with a shed of modern construction at its north-western end. I acknowledge that there is a number of trees on the periphery of this site. This site is of no known ecological value and the trees are not of particular significance. There is no information to determine that there is a bat population in the vicinity of this site as referred to by the appellant. I acknowledge that this application was referred by the Board to the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht and I note that no correspondence has been received indicating any concerns with potential impacts on a bat population in the vicinity of the site. I consider that it is reasonable to determine that the site is not of any particular sensitivity in terms of biodiversity.

## 7.6. Adequacy of Plans and Application Details

- 7.6.1. The appellant considers the submitted plans to be inaccurate and inadequate regarding details on height and the lack of contiguous elevations and he raises concerns regarding details on levels between the proposed development and his adjoining garden.
- 7.6.2. I note the plans, sections and elevations submitted. It is my submission that they clearly indicate the layout of the proposed development relative to adjoining properties, the principal dimensions, the proposed finished floor levels, proposed building heights, floor, eaves and ridge levels of neighbouring structures, and existing and proposed ground levels. It is also noted that the nature of the proposed retaining wall on the east side of the site is shown relative to finished floor levels of the proposed houses and the garden of the appellant's property. While I accept that

no contiguous elevations or sections are provided relative to adjoining structures east and west of the site, I note the significant separation distance between the proposed houses and these neighbouring structures and acknowledge again the details on levels of the proposed development relative to neighbouring property. Having regard to this, I consider that the nature and extent of the proposed development can reasonably be understood and I am satisfied that the planning application submission complies with the requirements of Articles 22 and 23 of the Planning and Development Regulations 2001, as amended.

## **8.0 Recommendation**

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

## **9.0 Reasons and Considerations**

Having regard to the design, character and layout of the proposed development, it is considered that the proposed development, subject to the conditions set out below, would not adversely impact on the residential amenities of adjoining properties and would otherwise be in accordance with the provisions of the West Cork Municipal District Local Area Plan as they relate to the village of Baltimore. 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 drawings and details submitted to the planning authority on the 4<sup>th</sup> March 2020 and 20<sup>th</sup> August 2020, 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 dwellings shall be occupied as places of permanent residence and shall not be used as holiday home development without the prior grant of planning permission.

**Reason:** To ensure compliance with the provisions of the West Cork Municipal District Local Area Plan as they relate to Baltimore and in the interest of providing for local permanent housing need within the village.

3. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

**Reason:** In the interest of visual amenity

5. The developer shall employ a suitably qualified Structural Engineer to assess the site and to monitor all site development works at the construction phase associated with the retaining features to be constructed on the site. A report containing the results of the assessment and detailing the proposed construction methodologies shall be submitted to the planning authority for written agreement prior to commencement of construction works.

**Reason:** To protect the amenities of property in the vicinity

6. The site shall be landscaped and boundary treatment shall be provided in accordance with a comprehensive scheme, inclusive of the retention and consolidation of the front boundary wall and the provision of retaining walls, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of residential and visual amenity.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

8. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and vibration management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

10. Site development and building works shall be carried out only between the hours of 0700 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.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and public safety.

12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open space, landscaping and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

13. 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.

---

Kevin Moore  
Senior Planning Inspector

16<sup>th</sup> December, 2020