



An
Bord
Pleanála

Inspector's Report

ABP-308884-20

Development	Demolition of existing single storey dwelling. Construction of new single storey dwelling, alterations to entrance, street boundary wall and associated works.
Location	The Lodge, Rochestown Road, Douglas, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2039423
Applicant(s)	Edward B Quinlan.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions.
Type of Appeal	Third Party
Appellant(s)	Patricia O Leary.
Observer(s)	None.
Date of Site Inspection	4 th February 2021.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to the site of an established residential dwelling site located at Rochestown Road in the suburb of Douglas, Cork. The site is on the southern side of the R610 approximately 100m to the east of The Fingerpost Roundabout and south of the Douglas Court Shopping Centre. The site is within a well-established predominantly residential area characterised by detached houses on individual sites.
- 1.2. The appeal site has a stated area of 0.045 hectares and is occupied by a single storey dwelling of 82sq.m. The front roadside boundary is defined by a 2m high wall with a vehicular entrance to the north-eastern end of the site frontage. This entrance does not appear to have been in use in recent times and access is gained via the adjacent entrance to the northeast which also serve the dwellings to the southeast.

2.0 Proposed Development

- 2.1. The application involves permission for demolition of the existing single storey dwelling, construction of a new single storey dwelling, alterations to entrance, street boundary wall and all associated works.

3.0 Planning Authority Decision

3.1. Decision

By order dated 16th November 2020 Cork City Council issued notification of the decision to grant permission and 13 conditions were attached which included condition 13 requiring payment of development contribution €6,853.13 in accordance with the development contribution scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's report requested additional information to confirm that all works are on lands in the ownership of the applicant and that no rights of way will be infringed upon by the proposed development. Concerns regarding access and egress and impact of parked cars also to be addressed. The adequacy of proposed private open

space provision was also queried. The second planner's report deems the proposal to be satisfactory and recommends permission.

3.2.2. Other Technical Reports

- Environment Report – no objection subject to conditions.
- Contributions Report. €6,853.13
- Area Engineer's report - In agreement with the designers that a reduction of the number of entrances in close proximity would be beneficial from a safety perspective. Proposals are not in compliance with current design standards however upgrades will be beneficial to all properties using the entrance and as such are to be welcomed. Surface water to be catered for on site.
- Drainage Report - no objection

3.3. Prescribed Bodies

- Irish Water submission – Connection agreement subject to constraints of Irish Water Capital Investment Programme and in compliance with Irish Water Standards and Practices.

3.4. Third Party Observations

There were submissions to the local authority by the following third-party residents:

Patricia O Leary, Molana Cottage Robin Hill with supporting letter from Gerard P Moynihan Consulting Engineer.

Tara O Leary, Molana Cottage, Robin Hill .

The submissions outline objection on a number of grounds which I have summarised as follows

- Traffic hazard. Proposal will exacerbate an already overcrowded driveway
- Removal of entrance will introduce lay by which will provide for u turn or pull in in heavy traffic conditions.

- Security issues / noise disturbance and other negative impact on established residential amenity.
- Overdevelopment of the site.
- Building on right of way.
- Removal of shrubs and trees is in breach of agreement as part of deed of transfer.
- No objection to refurbishment of lodge but extension should be worked around the existing lodge entrance.

4.0 Planning History

20/39070 Permission refused for demolition of existing single storey dwelling, construction of new single storey dwelling alterations to street boundary wall and all associated works. The reason for refusal was as follows:

“The proposed development will result in an intensification of the use of a shared vehicular entrance which has restricted sightlines and is substandard in terms of width. It is considered that the intensification of use would endanger public safety by reason of traffic hazard, as the restricted road frontage precludes the provision of satisfactory sight lines. The substandard width of the entrance / driveway may also result in an increase in vehicular conflicts on the Rochestown Road.”

Site opposite to the northwest.

249411 1&2 Rochestown Road. The Board refused permission for construction of 1 no single storey dwelling additional to the dwelling for which permission has been granted on the site (17/05038) on the following grounds

“It is considered that the proposed development would endanger public safety by reason of traffic hazard as the site is located alongside a heavily-trafficked regional road and the intensification of a permitted vehicular entrance with limited sightline provision and within close proximity to the Finger Post Roundabout and a pedestrian crossing would give rise to a traffic hazard and would interfere with the safety and free flow of traffic on the public road.”

5.0 Policy Context

5.1. Development Plan

5.1.1 The Cork County Development Plan 2014 refers. The site is within the boundary of Cork City South Environs as set out in the Ballincollig / Carrigaline Municipal District LAP (2017) and is zoned as an “existing built-up area”.

5.1.2 Objective ZU3-1 of the Cork County Development Plan ‘Existing Built Up Areas’ states that *‘normally encourage through the LAP’s development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built-up areas will be resisted’.*

5.2. Natural Heritage Designations

The site is not within a designated area. The nearest such sites are the Cork Harbour SPA (Site Code 004030) within approximately 400m to the north and the Great Island Channel SAC (Site Code 00058) circa 6.5km to the east.

5.3. EIA Screening

5.3.1. On the issue of Environmental Impact Assessment screening having regard to the limited nature and scale of the development, nature of the receiving environment no likelihood of significant effects on the environment arises from the development. The need for environmental impact assessment can, therefore, be excluded.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by John V Lennon Consulting Engineer on behalf of Patricia O Leary of Molana Cottage, Ronin Hill Rochestown Rad. The appeal is accompanied by a number of enclosures including photographs and a copy of the indenture

governing the sale of the property from the appellant to the first party 12th September 2005. Grounds of appeal are summarised as follows:

- Copy of Indenture governing the sale of the lands to the applicant requires free and unobstructed passage over the access at all times. Proposal would be in breach of that binding legal burden.
- First party is in default in relation to obligations as set out in the second schedule of the indenture with respect to non-interference with light entering the premises by planting. Removal of trees and shrubs in breach of agreement.
- Proposal represents overdevelopment of the site.
- Traffic hazard and obstruction of the driveway. Alterations to roadside boundary will enable u turn by motorists and stop off for delivery vehicles.
- Impact on safety and security.
- Proposal represents overdevelopment of the site.

6.2. Applicant Response

6.2.1 A response by Morrison Design Studio on behalf of the first party is summarised as follows:

- Proposal upgrades the site entrance to meet current road safety standards. There is no intensification of use.
- There will be no interference with or intrusion onto the appellant's right of way.
- Security gates not proposed as gated streets not permitted under the Cork City Development Plan.
- Full programme of landscaping envisaged.
- Modified Rochestown Road entrance from 8.5m to 10m is not significant and footpath width is increased.
- Proposed dwelling is carefully and sensitively design, and is appropriate to its surroundings does not constitute overdevelopment and improves amenity for adjoining residents and the public.

- Proposal alleviates current access and traffic dangers and improves pedestrian safety.

6.3. **Planning Authority Response**

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

7.0 **Assessment**

8.0 The main issues for consideration are as follows;

- Principle of Development
- Access and Traffic
- Residential amenity.
- Appropriate Assessment

8.1 On the matter of obligations and agreements between the parties with regard to the sale of the land I cannot adjudicate on the claims. I would note in response to issues regarding legal interest that all the matters raised are essentially civil matters between the parties and are not strictly matters for determination within the scope of planning legislation. In this regard I would refer the parties to Section 34(13) of the Planning and Development Act 2000, as amended as follows: *“A person shall not be entitled solely by reason of a permission under this section to carry out any development.”*

8.2 **Principle of Development**

8.2.1 On the question of the principle of demolition of the existing dwelling I note that whilst the established dwelling appears to be in a good state or repair and perfectly habitable, it is of no significant architectural or heritage merit and its demolition is considered appropriate in the circumstances. I am of the opinion that given the nature of the site and zoning, the delivery of modern level of residential development

is generally consistent with the policies of the Development Plan. It is therefore appropriate to assess the merits of the proposal in its detail.

8.3 Traffic and Access

8.3.1 The Rochestown Road is a heavily trafficked regional road. The proposal involves the elimination of the existing disused entrance with provision for modifications to the shared established entrance to the east by way of relocation of the existing pillars and alterations to the wall. On this basis it is noted that the proposal will increase the sightlines available. I note that the Area Engineer considers that the upgrade and reduction in number of entrances is beneficial and to be welcomed. On the basis that the proposal does not intensify the use of the entrance and provides for an improvement of same it is considered that the proposal is acceptable from a traffic safety perspective. As regards the potential for cars backing up at the entrance, I note that as the proposal is for replacement of a dwelling no intensification of the level of traffic is likely to arise.

8.4 Design and impact on residential amenity.

8.4.1 The proposed design is for a single storey dwelling. Whilst the proposal provides for a substantial increase in floor area on the site the relatively low profile of the dwelling is maintained. Given the enclosed nature of the site I consider that the visual impact is not significant. As regards residential amenity I note that the proposal provides for open space in the form of a south facing courtyard which is addressed by the main living areas of the dwelling. I consider that the proposal provides for a good standard of residential amenity. Given the character of the site and development in the vicinity no negative impacts arise in terms of the design on established residential amenity. On the matter of potential for increased security risk to the adjacent dwellings I consider that there is no reason to conclude that the alterations proposed to the entrance will give rise to any greater opportunities for burglars or uninvited persons. I consider that construction impacts can be appropriately managed by way of implementation of a suitably designed construction management plan.

8.5 Appropriate Assessment

8.5.1 As regards the issue of Appropriate Assessment, having regard to the nature of the proposed development and proposal to connect to existing public services together with separation distance from any designated European Site and having regard to the source pathway receptor model, it is not considered that the proposed development is likely to have significant effect either individually or in combination with other plans or projects on a European Site. It is therefore considered that appropriate assessment under the Habitats Directive (92\43\EEC) is not relevant in this case.

Recommendation

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that the Board uphold the decision of Cork City Council to grant permission subject to the following conditions.

REASONS AND CONSIDERATIONS

Having regard to the Cork County Development Plan 2014 and Ballincollig Carrigaline Municipal District Local Area Plan 2017, the proposal would be compatible with the visual and residential amenities of the area would not impact unduly on the residential amenities of adjacent dwellings and would afford a satisfactory standard of amenity to future occupiers. The proposed development is acceptable from a traffic safety perspective. No Appropriate Assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted on 20th October 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.

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and 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.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, and any statutory provision replacing or amending them, no development falling within Class 1 of Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

5. The road works associated with the proposed development including the setting out of the entrance, paving and surface finishes shall be carried out and completed in accordance with the requirements of the planning authority.

Reason: In the interest of traffic safety and orderly development.

6. 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 hours of working, noise management measures and offsite disposal of construction/demolition waste.

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

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with, *“Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”*, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interests of sustainable waste management.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 – 2015. The contribution shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 – 2015 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.

Bríd Maxwell
Planning Inspector

19th March 2021