



An
Bord
Pleanála

Inspector's Report

ABP-309054-20

Development	Retention of demolition on the former dwelling on their site as permitted under 18/4702. Permission for construction of 2 no 4-bedroom single storey dwellings
Location	Derreen , Church Hill , Glanmire
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2039330
Applicant(s)	Hillary and Aidan O Shea
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	Pat and Carmel O Hara Frank Judge & Mary O Dowd.
Observer(s)	None
Date of Site Inspection	4 th March 2021.
Inspector	Bríd Maxwell

1.0 Site Location and Description

1.1. This appeal relates to an established residential site located at Derreen on Church Hill, in Glanmire, approximately 5km north east of Cork City. The appeal site has a stated area of 0.61 hectares and is accessed via a right of way off Church Lane. The site slopes from north west to southeast with a variation of circa 5m over the site. Site boundaries are defined by mature vegetation and the site is surrounded by residential development including two detached properties on generous sites to the west and Crawford Woods to the north west. Glenkeen Lodge and Glenkeen House both recorded on the NIAH 20860006 and 20860007 are located to the southwest and northeast respectively with interlinking access to the latter running along the south-eastern boundary of the appeal site. The appeal site is accessed via a right of way over a shared lane also serving the two adjacent dwellings to the southwest. The appeal site was previously occupied by a detached dwelling which has been demolished and all that remains on site is a detached garage located towards the northern end of the site.

2.0 Proposed Development

- 2.1. The application as set out involves permission for the retention of demolition of the former dwelling on their site (as permitted under 18/4702) and permission for construction of 2 no 4-bedroom single storey dwellings with separate water treatment units and treatment modules, including demolition of existing garage and associated site works.
- 2.2. The proposed dwellings have an integrated car port / garage and have a floor area of 243.5sq.m. The application is accompanied by an Exemption Cert pursuant to Part 5 of the Planning and Development Act 2002.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 26th November 2020 Cork city Council issued notification of decision to grant permission and 16 conditions were attached including the following of note:

Condition 2 Landscaping scheme to be completed within 2 years of occupation of the dwellings.

Conditions 3 and 4 Waste management and disposal.

Condition 7 Sight viewing distance at entrance to be maintained.

Condition 15 Implementation of recommendations of MDK Analytical "Survey Sampling and Assessment for Asbestos Containing Materials".

Condition 16 Development Contribution €15,285.06.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial planner's report sought additional information to include a landscaping plan with proposals along the south-eastern boundary of the site, an asbestos survey and details of separation distances for Wastewater Treatment systems to demonstrate compliance with EPA Code of Practice, Wastewater Treatment and Disposal Systems serving Single Houses ($p \leq 10$). Final planner's report recommends permission subject to conditions.

3.2.2. Other Technical Reports

Environment Report – no objection subject to conditions

Executive Technician, Community Culture and Placemaking – Contributions
€30568.13

Executive Engineer Rural Water – Further information required regarding separation distances for wastewater treatment system.

Area Engineer's report – no objection subject to conditions

Senior Executive Engineer Drainage – Asbestos survey required regarding demolition works and fill materials.

3.3. Prescribed Bodies

Irish Water - No objection subject to connection agreement.

3.4. Third Party Observations

3.4.1 Submissions by the following third parties

- Frank Judge and Mary O Dowd, Green Oaks, Church Hill.
- Magee Creedon Architects and Ronan Daly Jermyn Solicitors on behalf of Pat and Carmel O Hara, Glenkeen.

3.4.2 The submissions raise a number of issues in common as well as specific concerns which I have summarised as follows:

- Traffic hazard. Single carriageway access with poor sightlines is not suitable for additional traffic.
- Blind spot when exiting Derreen, speed bumps required, road surface issues.
- Construction traffic.
- Concern that demolition waste was infilled on the site including possible asbestos roof tiles.
- Objection / No consent to intensification of use of right of way.
- Significant negative impact on Glenkeen in terms of overlooking. Proposed floor levels are at least 2m (unit 1) and 3 m (unit 2) above the level of the boundary with Glenkeen. Floor levels are not set down to follow the contours of the site.
- Mass and height are more overbearing than a standard single store house.
- No detailed landscaping design. Concerns regarding future upper floor development. Proposal threatens the vitality enjoyment and residential amenity of the adjacent dwelling and the history integrity setting and context.
- Environmental and public health concerns arising from additional treatment unit.

4.0 Planning History

18-4702 Permission granted for demolition of existing bungalow and construction of a new dwellinghouse, decommissioning of the exiting septic tank and installation of a new wastewater treatment system and all ancillary works.

19038899 Incomplete

5.0 Policy Context

5.1. Development Plan

5.1.1 The Cork County Development Plan 2014 and Cobh Municipal District Local Area Plan 2017 refer. The site is within the settlement boundary for Glanmire and is zoned “Existing Built-Up Area”.

The site is within High Value Landscape.

5.2. Natural Heritage Designations

The site is not within a designated area. The nearest such sites are
Cork Harbour SPA (Site Code 004030) 350m to the
Great Island Channel SAC (Site Code 004030)

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 There are two third party appeals by

- Magee Creedon Architects on behalf of Frank Judge and Mary O Dowd, Green Oaks.
- Magee Creedon Architects on behalf of Pat and Carmel O Hara, Glenkeen.

6.1.2 Grounds of appeal raise common issues which I have summarised as follows:

- Intensification of use and construction traffic will significantly impact on the wear and tear on the road.
- Safety risks will be amplified (blind spots, inadequate sightlines, absence of traffic calming measures).
- Condition 7 inadequate and not site specific. No right of way for second dwelling.¹
- Demolition material used to raise the level of the site especially at south/west side, Resulted in 1.5-2m bank near the boundary with Glenkeen. No proposals to address drainage. Concern that asbestos slates were buried in SW Area of the site under the current rubble.
- Overlooking - Dayspaces and master bedrooms arranged in a linear fashion facing southwest overlooking Glenkeen.
- Floor levels do not step down with contours of the site.
- Reject the assertion that the design is high quality. Proposal does not take account of context and setting is not sympathetic to residential amenity and does not resolve access issues and other issues in site layout.
- Speculative development and no control over finishes. Potential for future development at first floor level.
- A better proposal would be to provide a well landscaped access along the south-eastern boundary providing for privacy buffer,
- Landscaping design is inadequate.
- Proposal threatens the vitality, enjoyment and established residential amenity contrary to Zoning Objective ZU-3-1.

¹ I note letter by Ronan Jermyn Solicitors dated 7th January 2020 which was included with the appeal of Pat & Carmel O Hara in relation to the right of way was subsequently withdrawn by letter Magee Creedon Architects submission to the Board dated 7th January 2021 and received by the Board on 11 January 2021.

- Threatens the historic setting and context of the adjacent property and result in diminution of value.

6.2. Applicant Response

6.2.1 The response of the first party which includes a letter by the applicant, submission by Kiosk Architects, Letter from JRAP O Meara Solicitors, and a letter from Walsh Design Group is summarised as follows

- Site was purchased in 2016 and it was planned to build a family home. with permission secured under 18/4702
- Access is by shared laneway over which there is a right of way without restriction as outlined in letter from JRAP O Meara Solicitors.
- Design responds directly to the site and is for two low scale pavilion like residential forms set within a mature planted environment,
- The combination of distance to the boundary, levels and existing /proposed boundary planting there is no intention to overlook the existing access lane. Landscaping ensures no view to the laneway
- Proposal will not give rise to overlooking.
- Design takes account of the setting is sympathetic to existing residential amenity.
- While the site could in line with density guidelines accommodate more than two dwellings the 2 units were considered appropriate having regard to existing residential amenity and access to services.
- Densification of this infill site appropriate and in keeping with current planning policy and density guidelines.
- Discussions with Area Engineer regarding entrance and condition 7 stipulates that sight viewing distance be maintained.

- Given the shared access situations it would be expected that motorists would adjust their behaviours in line with the specific conditions and in appreciation of their duty of care to others.
- Construction management plan will address traffic navigation and health and safety issues.
- Note applicants arranged and paid for the repair of the access roadway at their own cost.
- Regarding drainage. Topography of the site will be returned to its original state
- Asbestos survey carried out. Recommendations will be implemented to ensure that asbestos is appropriately dealt with.

6.3. **Planning Authority Response**

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

7.0 **Assessment**

- 7.1. Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider that the key issues arising in this appeal can be considered under the following broad headings.

Principle of Development

Quality of Design and Layout

Traffic and Access

Servicing and Environmental Impact

Appropriate Assessment

7.2 On the question of the right of way over the access to the site and obligations with regard to road condition and maintenance issues, I note the submission of the first party in response to the appeals indicating an unrestricted right of access to the site and a clear commitment to obligations with regard to safety and roadway maintenance and the duty of care to all road users. I find that in regard to legal interest these issues 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.”*

7.3 Principle of development

7.3.1 As regards the principle of development, the site is within the established settlement of Glanmire and I consider that the proposal to provide for an additional residential dwelling on the site is appropriate subject to detailed design considerations. The proposal is in accordance with the general policy desirability to increase densities within built up/ urban areas in the interest of efficient land use resources and economies of scale. I note that as outlined in the first party submissions a higher density might otherwise be considered however the capacity for additional development is constrained by the need to provide for on site wastewater treatment systems and access issues. Having concluded that the provision of a second dwelling on the site is acceptable the focus for assessment is on the detailed nature of the development.

7.4 Quality of Design and Layout

7.4.1 As regards the issue of the residential amenity of the proposed dwelling units, I note that the floor areas of the proposed dwellings are generous and provide for a high standard of residential amenity. I consider that the siting, design and low profile of the proposed dwellings on the site will appropriately integrate the dwellings into the landscape. Established and proposed trees and hedgerows will further mitigate the

visual impact arising ensuring no detriment to the visual amenities of the area and no significant impact in terms of the site context and heritage value.

- 7.4.2 As regards impact on established residential amenities, I consider that the distance and intervening landscaping will ensure no overlooking or loss of established residential amenity.

7.5 Traffic and Access

- 7.5.1 As regards the issue of access and traffic, the application site does not incorporate the entrance from the public road or the access road within the redline boundary as the applicant does not own but has a right of way over this access. Whilst it is acknowledged clearly that the capacity of the access to cater for additional development is constrained to a degree by the restricted nature of the sightlines available, the single carriageway character and nature of the surface of the access however having regard to the location within the existing built up area, to the character of the area and road in the vicinity of the site, I consider that an additional dwelling will not give rise to a significant increase in traffic and the development is acceptable from a traffic safety perspective.

7.6 Servicing and Environmental Issues

- 7.6.1 As regards wastewater treatment the proposal involves the provision of two individual on site treatment systems to serve the proposed dwellings. The systems proposed are Tricel Novo P6 wastewater treatment units with primary and secondary treatment and gravity flow to a sand polishing filter and discharge to ground. The site suitability assessment noted that in the excavation of trial hole to a depth of 2.1m neither bedrock nor watertable were encountered. The trial hole revealed that the site is underlain by 0.4m of organic rich loam topsoil overlying 1.7m of sandy silt containing abundant gravel sized clasts. 3 percolation tests were undertaken at depths of 0.5m -0.9m resulting in a P value of 9.83. Based on details provided it is feasible to provide for wastewater treatment on the site in accordance with EPA Wastewater Manual standards. On the issue of surface water disposal, it is proposed

to deal with surface water arising by way of soakaways. Site levels are to be restored to natural contours.

- 7.6.2 As regards the issue of Asbestos containing material on the site, I note the submitted Asbestos Survey by MDK Analytical and the clear commitment by the first party to the appropriate disposal of asbestos to a suitable licensed facility.

7.7 Appropriate Assessment

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

8 Recommendation

- 8.1 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 planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to the established built-up area zoning of the site of the proposed development, the pattern of development in the vicinity, the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and would be in accordance 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 the further plans and particulars submitted on the 30th 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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of construction of the houses, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

3. The landscaping scheme shown on drawing no 281-19-111, as submitted to the planning authority on 30th October 2020 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

4. 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 and to ensure a proper standard of development.

5. 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.

6.
 - a) The treatment plants and polishing filters shall be maintained in accordance with the details submitted and in accordance with the requirements of the "Wastewater Treatment Manual; Treatment Systems for Single Houses " EPA 2000.
 - b) A maintenance contract for the treatment systems shall be entered into and paid in advance for a minimum period of five years from first occupancy of the dwellinghouses and thereafter shall be kept in place at all times. Signed and dated copies of the contracts shall be submitted to and agreed in writing with the planning authority within four weeks of the occupancy
 - c) Surface water soakways shall be located such that the drainage from the dwellings and paved areas of the site shall be diverted away from the location of the polishing filter.
 - d) Within 3 months of the first occupation of the dwellings, the developer shall submit a report from a suitably qualified person with professional indemnity insurance, certifying that the proprietary effluent treatment systems have been installed and commissioned in accordance with the approved details and is working in a satisfactory manner.

Reason: In the interest of public health

7. 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. 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. 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 the Board to determine the proper application of the terms of the Scheme.

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

18th March 2021