



An  
Bord  
Pleanála

## Inspector's Report ABP.312022-21

### Development

- (a) Demolish carport platform and reconstruct platform and associated perimeter fencing
- (b) Construct a rear extension at Levels and 2 (below carport)
- (c) Construct domestic lift to serve level: 1, 2, 3 and 5
- (d) Replace timber railing with glass balustrade

### Location

Half Wall, The Ramparts, Kinsale

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

21/6141

### Applicant(s)

David and Angela Doyle

### Type of Application

Planning permission

### Planning Authority Decision

Grant s.t. conditions

### Type of Appeal

Third party

### Appellant(s)

Maura Ahern

### Observer(s)

None

### Date of Site Inspection

4<sup>th</sup> April 2022

### Inspector

Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site is located on Rampart Lane in the central southern part of Kinsale Town to the west of the harbour. The Ramparts is a narrow laneway on elevated lands which forms part of a terraced or stepped landscape with scenic views overlooking Kinsale Harbour and the Bandon River. The area comprises a densely developed townscape with a series of narrow lanes running predominantly N-S which step down towards Pier Road, and which are interlinked by sets of stone steps and small lanes. The Ramparts is located above O'Connell Street, which in turn is located above the Town Park and Acton's Hotel along Pier Road. The western side of the lane consists mainly of a stone cliff face with individual houses on the eastern side of the lane.
- 1.2.** The appeal site comprises a detached house which has been constructed over several levels and which appears from the street as a single-storey house with a carport. The site was redeveloped in 2000 when the existing house was constructed over three levels with a basement. The appellant's house is a 3-storey dwelling which is located on O'Connell Street Lower, which is immediately below (to the east) of the rear garden of the appeal site. The difference in levels is such that the ground and first floors of this house are below the level of the terrace at the appeal site. The house to the north of the site has been redeveloped/extended with a modern metal box-like element which sits above the rest of the house and is the main feature that is visible from the Ramparts.
- 1.3.** The site area is given as 0.036ha. The site is occupied as a single house. The ground level (Level 1) includes a conservatory (SW corner of house) and a terrace at the rear, which is screened from the adjoining properties on O'Connell Street below by a timber fence. The carport, which is situated at the northern side of the house, is cantilevered over an open space area, which is essentially used as open storage associated with the house. The site includes an external staircase at the southern end which provides access between the front and rear garden areas.

## **2.0 Proposed Development**

- 2.1.** Permission is sought to demolish and rebuild the carport platform and to infill the open area beneath the carport as an extension to the house over two levels with a basement (level 0). The area at Level 1 would be used as a utility room and the area

at Level 2 as a dressing room. The carport, (which is effectively a street-level parking space with a balustrade and gate), would remain at Level 3. It is also proposed to install a domestic lift in the area between the proposed extension and the original house. The proposed development also includes the replacement of part of the timber fence with a glass balustrade.

- 2.2.** The proposed extension will comprise a total of 42.2sq.m over three levels, with the floor area of the existing house as 242.3sq.m. The proposed extension is recessed behind the rear building line of the main house and would be set back from the eastern rear boundary by 7897mm (at the northern end opposite the appellant's house, 'Carbery'). It would be located immediately adjacent to the northern boundary (with 'Fishermans' Hall') and slightly recessed behind the roadside boundary (as at present).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided to grant subject to one condition. This required that the proposed development be carried out in accordance with the submitted plans as revised by the plans submitted on 4<sup>th</sup> October 2021 and in particular that the new dressing room window be fitted with opaque glass and that the new glass balustrade be also fitted with opaque glass.

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

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

It was noted that four third-party objections had been received which raised issues such as the significant scale of the existing house, the conflict with the condition attached to the permission for this house, visual/townscape impact on property within ACA, overlooking and overshadowing. Further issues were raised regarding the structural implications given that it was claimed that the original house construction had caused a collapse of the cliff wall. the Area Planner considered that potential overlooking from the dressing room window and from the glass balustrade needed to be addressed. No further issues relating to residential amenity were of concern such

as overlooking to the north or overshadowing. The visual impact was not considered to be of concern and there would be little impact on the setting within the ACA as the visibility was very limited.

Further information was requested in respect of the matters highlighted above on the 27<sup>th</sup> of September 2021. Revised drawings were submitted on 4<sup>th</sup> October 2021 which showed opaque glazing to the dressing room window at second floor level and to the proposed balustrade. The Area Planner also considered that given the existing ground disturbance and nature of the proposed works to a modern building, the heritage issues relating to the ACA and the Zone of Archaeological Potential were not relevant in this instance.

**Permission was recommended subject to conditions.**

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

**Archaeologist Report (27/09/21)** – the site is located within the Zone of Archaeological Potential for the historic town of Kinsale CO112-3401. Reference was made to the Archaeological Objectives in the Kinsale Development Plan (2009-2015). The Archaeologist recommended that the development should be subject to an Archaeological Impact Assessment.

**Area Engineer Report (27/10/21)** – it was noted that the new carport would be slightly higher than the existing and a condition was therefore recommended that no surface water run-off be allowed to enter the public road.

### **3.3. Prescribed Bodies**

None

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

Observations received from four neighbouring residents including the appellant ('Carbery') and the adjoining neighbour to the North-east ('Fisherman's Hall'). The Objections raised may be summarised as follows:

- Conflict with condition of original permission – the open area underneath the carport was to be retained in the interests of visual and residential amenity.

- Overdevelopment of restricted site - The existing house is excessive in scale and is intrusive and the additional infill will significantly affect the residential amenities of the houses on the lower level to the east.
- Residential amenity – The proposed second floor window and glass balustrade will result in overlooking. The larger carport will result in overshadowing of properties to the east.
- Structural stability – it is claimed that the construction of the original house had cause a collapse of the rock face which raises concerns of structural stability, especially in the absence of an engineering report.

## 4.0 Planning History

**PL66.094538 (Reg. Ref. 38/94)** – planning permission granted for the construction of dwelling house.

**Reg. Ref. 44/99** – planning permission for revised design – not implemented

**Reg. Ref. 05/53025** – Use of basement as domestic store and retain access to patio

## 5.0 Policy Context

### 5.1. Development Plan

#### **Kinsale Town Development Plan 2009-2015**

The site is located in an area zoned as **Existing Town Centre**. The objective for this zone is to protect, preserve, enhance and develop the special physical and social character of the existing town centre, to support appropriate infill development, use of upper floors for residential and other uses and to provide for new and improved ancillary services.'

**ERR 1** – Proposals for extensions to dwelling will be permitted if all of the following criteria are met

- (1) Respects scale and character
- (2) Adequate on-site parking is provided
- (3) No adverse effect on residential amenity of adjoining occupiers

## 5.2. Natural Heritage Designations

There are no European Sites in close proximity to the development site. The closest European sites are:

- Sovereign Islands SPA (004124) which is approx.. 6km to the southeast
- Old Head of Kinsale SPA (004021) which is approx.. 9km to the southwest

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The third-party appeal was submitted by Maura Ahern, a local resident, who resides at a house immediately to the East, 'Carbery', Lower O'Connell Street. The main points raised may be summarised as follows:

- **Contravenes condition of original planning permission** – the proposal would contravene a condition of the permission granted under Ref. No. 44/99 which stated that “the transparent effect of the car parking belvedere is to be preserved and shall not be filled in at any future date”. The reason was in the interests of residential and visual amenity. It is submitted that these reasons are still valid and relevant as the house is of a substantial scale and prominence in the townscape and is situated directly behind the appellant's home and the adjoining Fishermans' Hall, which is a Protected Structure.
- **Residential amenity** – The proposed extension would overlook the appellant's home and those of neighbouring properties. The requirement to have obscure glazing is not likely to be enforceable into the future.
- **Structural issues** – it is claimed that the rock face collapsed when this building was being constructed and there is concern that additional building works on the site will have a similar effect on the rock face, which would have the potential to cause serious damage to her home and disrupt the peaceful enjoyment of her property. She is not convinced that construction so close to the boundary of the site is safe or appropriate, particularly as there is no surveyor's or engineer's report regarding the suitability of the existing rock to support such an extension.

- **Impact on Architectural Conservation Area** – the existing dwelling is in a very prominent location and the proposed extension would add considerably to the bulk of the house and the impact that the dwelling would have on the Architectural Conservation Area.

## 6.2. Planning Authority Response to grounds of appeal

The P.A. has responded to the grounds of appeal on the 15<sup>th</sup> of December 2021. It has confirmed its decision and has made no new comments.

## 6.3. First party response to grounds of appeal (20/12/21)

The grounds of appeal are strongly refuted. However, the response is mainly in the form of a rebuttal of the grounds. A number of points of relevance have been made as follows:

- **Planning history clarification** – There were two planning applications for the development of the site. The first (38/1994) was granted by the Board on appeal, but shortly after commencing works, the existing land platform on which the house was to be constructed collapsed and came to rest approx. 3 metres below the existing level. Consequently, a new planning application was lodged to address the change in circumstances (44/1999). This application proposed to locate the house one floor lower than the original permission, which provided the opportunity to accommodate car parking on the 'top floor' of the house, level with the road and to provide a roof over the car parking creating a belvedere, which would have maintained views over the town below. However, this application was withdrawn, following the lodgement of an appeal, and was not proceeded with. The house that was constructed was built in accordance with the original permission, which was extended through an Extension of Duration. The intent of condition 1 of 44/99 was to preserve the views from the Ramparts over the town. However, the existing carport does not interfere with this view and the proposed carport will simply be re-instated, with no additional impacts on this view.
- **Residential amenity** - The proposed development will not cause overlooking or overshadowing of the neighbour's property, as windows will be obscured

and no further loss of light will occur than is already caused by the Ramparts wall itself. The visual amenity of the appellant's property will be improved as the proposed extension will replace an existing view of an oil tank below the car deck and unsightly concrete retaining works.

- **Structural stability** – there was no collapse of the rock face at any stage during construction of the original house. The three metre overburden collapsed away from the existing rock substrata. A letter confirming this is enclosed from MWP Consulting Engineers dated 20<sup>th</sup> December 2021.
- **Compliance with Kinsale Development Plan** – the site is zoned 'Established Town Centre'. Infill development is acceptable in residential areas provided that careful consideration is given to design, privacy, overlooking, daylight/sunlight and aspect. The proposed extension meets all of these criteria.
- **Impact on ACA** – it is submitted that this modest extension which infills a void under the car deck will have minimal impact on the ACA. The board's attention is drawn to developments recently permitted on either side of the appeal site which are much more significant in terms of their scale and design, such as An Carraige to the north of the site. No objection was made to this development.
- **Personal circumstances** – The applicants are elderly and wish to continue living here, but find the difference in levels within the house increasingly challenging. The additional accommodation and lift will provide more comfortable and efficient living accommodation for them as they grow older.

## 7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows: -

- Principle of development
- Impact on residential amenity
- Impact on visual amenity and ACA
- Structural issues



## **7.2. Principle of Development**

- 7.2.1.** The site is located in an established mature residential area which is zoned Existing Town Centre for which the objective is to protect, preserve, enhance and develop the special physical and social character of the existing town centre. Extensions to existing dwellings are generally acceptable provided that the design respects the scale and character of the area, there is no adverse impact on residential amenity and adequate parking provision is made (Policy ERR 1). The issues of impact on residential amenity and visual amenity will be addressed in the following sections. However, it is considered that the proposed extension is a relatively small development of c.42m<sup>2</sup> which will not extend the footprint of the house and will retain the existing off-street parking provision. Thus it is considered that the proposal would be acceptable in principle, provided that the visual amenities of the area and the residential amenities of the neighbouring properties were not adversely affected.
- 7.2.2.** The proposed extension is stated to be in contravention of a condition of a previous planning permission (44/99). This condition reads as follows:
1. The transparent effect of the car parking belvedere is to be preserved and shall not be infilled at any future date.
- Reason: In the interests of residential amenity
- 7.2.3.** The appellant (and the observers on the planning application) considered that the intent of condition 1 of that permission was to prevent the infilling of the area under the carport. However, the applicants' agent considers that the intent of that condition was to preserve the views of the town and harbour through the carport (belvedere), not views of the structure from below. I note that a 'belvedere' is defined as 'a summerhouse or cupola designed to command a view' (Merriam -Webster dictionary). In addition, condition 2 of the same permission sought to preserve the view from the Ramparts through the belvedere by prohibiting the storage of bins etc. As the view uphill towards the structure is not particularly attractive with a car deck suspended over an outdoor utility/domestic storage area, I would tend to agree with the first party that the intention of the condition was to preserve views from the Ramparts westwards, rather than the other way around.
- 7.2.4.** Notwithstanding this, the planning status of this permission is questionable as the applicant states that it was not implemented and was only submitted to overcome the

altered ground levels on site. As the permission (44/99) was appealed, the applicants decided to withdraw the application in order to prevent further undue delay and instead sought an extension of duration of the original permission (38/94). Thus, the relevance of this condition is uncertain, and it is considered that the proposed extension would not, in any case, be in conflict with the intent of this restriction.

- 7.2.5.** It is considered, therefore, that the proposed development is acceptable in principle subject to no adverse impacts on residential and visual amenity.

### **7.3. Impact on Residential Amenity**

- 7.3.1.** The appellant believes that the proposed extension would exacerbate what is considered to be the existing overdevelopment of the site and would adversely affect the residential amenity of her house, and that of the dwelling houses down-slope to the east, by reason of overlooking and overshadowing.
- 7.3.2.** The proposed extension is stated to have a floor area of 42.2m<sup>2</sup> and the floor area of the existing dwelling is c.242.3m<sup>2</sup>. Thus, the total floor area would be increased by to 284.5m<sup>2</sup>, which would give a plot ratio of 1:0.79 and as the extension is under the area of the existing car port, it would not increase the site coverage to any material extent. The rear garden would not be reduced by the proposed development, as the additional accommodation is within the existing footprint of the house. These parameters are considered to be reasonable in an urban setting which is close to the town centre. Furthermore, there is no increase in the number of bedrooms proposed as the accommodation relates to a utility room and a dressing room. The proposed extension is therefore a modest addition to the existing house.
- 7.3.3.** The design as originally submitted included a window to the proposed dressing room at Level 2 which it was considered could result in loss of privacy to the dwellings to the east. However, the revised drawing submitted on the 4<sup>th</sup> October 2021 proposed to provide obscure glazing to this window, which would eliminate any potential for overlooking. The extension is recessed behind the main rear building line of the house and would be almost 8m from the boundary of the terrace with the properties below and c.16.5m from the appellant's rear gable wall. The proposal would marginally reduce the existing distances by c.1 metre, which would be unlikely to result in any significant increase in either overlooking or overshadowing.

- 7.3.4.** In addition, the revised plans indicated that the proposed glass balustrade which would replace part of the timber fence that screens the terrace from properties below, would be fitted with obscure glazing. From my observations on site, it is difficult to see how the proposed extension would result in any significant increase in overlooking due to the distances involved combined with the screen fencing of the terrace and the substantial difference in levels between the properties. It was further noted that the hillside is characterised by houses stepping down the slope with windows, patio doors and terraces overlooking neighbouring properties as an inherent part of the design and character of the townscape.
- 7.3.5.** In conclusion, it is considered that the proposed development would not result in overdevelopment of the site and would not injure the or residential amenities of the neighbouring properties.

#### **7.4. Visual amenity and impact on Architectural Conservation Area**

- 7.4.1.** The appellant believes that the proposed development would be visually obtrusive and that the design and scale would be inappropriate given the location of the site within an Architectural Conservation Area.
- 7.4.2.** As stated previously, the townscape is characterised by narrow streets with individual houses in a densely developed pattern effectively forming a series of terraces stepping down the hillside. The architecture includes a mix of traditional and innovative designs which have sought to integrate the various developments into the challenging steep hillside. The narrow streets are picturesque, not least The Ramparts, with stone cliff faces and views over the town and harbour. Due to the elevated position of the site within this landscape, the appeal site is reasonably prominent within the townscape and in views from O'Connell Street below. However, these views are generally glimpsed between the buildings at the lower level. The site and existing dwelling are also prominent in more distant views from the other side of the inner harbour including from the R600/Lower Road and from Scilly.
- 7.4.3.** The design and scale of the proposal is considered to be in keeping with the character and scale of the house and would not result in visual obtrusion or an overbearing impact. The views from the Ramparts of the dwelling and over the site to the harbour will not be affected in any significant way. The location of the proposed extension within the footprint and contained within the existing under croft area of the

carport will minimise the visual impact of the proposal from the east. In addition, the use of stone and painted render will integrate the extension into the design of the main dwelling. However, notwithstanding this, it is considered that the use of materials on the eastern elevation are of critical importance to the successful integration of the development into the townscape of the hillside, particularly in distant views of the site. In this respect, it is considered that the eastern elevation should be clad with stone to match the stonework on the main house in its entirety. This would enable the extension to blend into the cliff face behind and prevent the development from being visually obtrusive.

- 7.4.4.** Subject to this suggested amendment, it is considered that the proposed extension would be appropriate in terms of its design and scale and would not injure the visual amenities of the area or the character of the Architectural Conservation Area.

## **7.5. Structural issues**

- 7.5.1.** The appellant has submitted that the construction of the original dwelling had triggered a collapse of the rock face, but the first party has disputed this saying that it was the overburden that collapsed, and not the rock face. A letter was submitted from the applicant's engineer (MWP Engineering and Environmental consultants) with the response to the grounds of appeal (20/12/21) which states the following

“ We have reviewed the site investigation information that was prepared in 1999. We have also inspected the basement foundations located within the footprint of the proposed new extension under the existing carport to the east of the main dwelling. We are satisfied that the new foundations will bear directly onto competent rock and that there is no geotechnical risk to adjacent properties in relation to the proposed works”.

- 7.5.2.** The statements from the engineer and the architect seem reasonable. It is considered that the proposed modest extension within the overall footprint of the existing house is not likely to result in any significant structural issues.

## **7.6. Environmental Impact Assessment**

- 7.6.1.** Having regard to the nature and scale of the development, 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.

## **7.7. Appropriate Assessment**

- 7.7.1.** The site is located within 10km of two Natura 2000 sites. The Sovereign Islands SPA (Site code 004124) and the Old Head of Kinsale SPA (Site code 004021) are located c.6km to the south-east and 9km to the south-west, respectively. Given the distances involved, that the residential use of the site is an established one and as the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

## **8.0 Recommendation**

- 8.1.** It is recommended that planning permission be granted for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

Having regard to the provisions of the Kinsale Town Development Plan 2009-2015 (as extended and varied), to the nature and scale of the development and to the existing pattern of development in this town centre location, 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 and 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 plans and particulars submitted on the 4<sup>th</sup> day of October 2021, 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 developer shall comply with the following requirements: -
- (a) The dressing room window at Level 2 on the eastern elevation shall be fitted and permanently maintained in obscure glass.
  - (b) The new glass balustrade to the east of the terrace at the rear shall be fitted with and permanently maintained in obscure glass.

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

3. The external finishes of the proposed extension shall comprise stone cladding to match the stone cladding of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. Water supply and drainage arrangement, 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.

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Mary Kennelly  
Senior Planning Inspector

14<sup>th</sup> April 2022