



An
Bord
Pleanála

Inspector's Report

ABP-313196-22

Development	Construction of a house
Location	Oaklands, Gully, Bandon, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	215290
Applicant(s)	James Neville
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	James Neville
Date of Site Inspection	5 th October 2022
Inspector	Liam Bowe

1.0 Site Location and Description

- 1.1. The site is located on Doherty's Road in Bandon town, Co. Cork. The site is within the mature grounds of Oaklands House, a protected structure, which is located approximately 500m to the southwest of the town centre. Doherty's Road is a typical residential street comprised of a mixture of single storey and two-storey detached houses. Castle Oaks housing development is located immediately to the north of the appeal site.
- 1.2. The site itself is of regular shape and has a stated area of 0.38 hectares. The site rises upwards from Doherty's Road at the east and the main body of the site is relatively flat. The site is presently accessed from Doherty's Road to the east via the access to Oaklands House. The southern, northern and eastern site boundaries are mature. There is a low sod and stone wall, associated with the protected structure, at the eastern site boundary that runs along Doherty's Road.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a detached dwelling house, on-site wastewater treatment system and new entrance on the site at Doherty's Road, Bandon, Co. Cork. The house would be part of a pair of houses at this location to the northeast of Oaklands House and each house would be of an individual design. The other house proposed is subject to a separate application and appeal (ABP-313202-22 refers).
- 2.2. The proposed house is two-storey of contemporary design with a floor area of 238m² and a ridge height of 7.735m, with render finish and black slates / tiles. A site-specific landscaping plan is proposed.

3.0 Planning Authority Decision

3.1. Request for Further Information

- 3.1.1. Prior to notification of decision, the Planning Authority issued a further information request on 2nd July 2021 requiring a revised layout with a Tree Survey and a Tree Protection Plan, details for upgrading the existing entrance or minimising the impact

of the current proposal, a detailed landscaping plan, details of materials for the proposed entrance, demonstration of sightlines, demonstration of separation distances and WWTS in accordance with EPA standards, and design of soakaways. The First Party submitted a revised site layout plan re-locating the house and revised drawings mirroring the house, a Tree Survey and Tree Protection Plan, revised landscaping proposals at the proposed entrance, details on sightlines, details on the WWTS and details on the soakaways.

3.2. Clarification of Further Information

- 3.2.1. Prior to notification of decision, the Planning Authority issued a clarification of further information request on 14th January 2022 requiring further details on the treatment of the proposed entrance and confirming the planning authority's preference for use of the existing entrance. The First Party submitted revised details for the proposed entrance and an explanation as to why other options to minimise impacts on the protected structure were not viable.

3.3. Decision

- 3.3.1. By order dated 7th March 2022 Cork County Council issued a notification of decision to Refuse Permission for the proposed development for the following reason:

It is a stated objective of Cork County Development Plan, 2014 under Policy Objective HE 4-1 to protect the special character of protected structures, their curtilages and attendant grounds and to ensure that development proposals are appropriate in terms of architectural treatment, character, scale and form to existing protected structures and their settings. It is considered that the proposed entrance and entrance road to the development would have a significant negative impact on the historic demesne which forms part of the curtilage of a protected structure. The proposed development would, thus, contravene Policy Objectives HE 4-1(d), (e), (f) & (g) of the Cork County Development Plan, 2014 and, accordingly, would be contrary to the proper planning and sustainable development of the area.

3.4. Planning Authority Reports

3.4.1. Planning Reports

There are three Planning Reports on file dated 2nd July 2021, 14th January 2022 and 7th March 2022, respectively. The Planning Officer in the initial report stated that the principle of a dwelling house was acceptable within the existing built-up area of Bandon but raised concerns about the impact on the setting of the protected structure, Oaklands House. The report recommended further information be requested regarding a revised layout with a Tree Survey and a Tree Protection Plan, details for upgrading the existing entrance or minimising the impact of the current proposal, a detailed landscaping plan, details of materials for the proposed entrance, demonstration of sightlines, demonstration of separation distances and WWTS in accordance with EPA standards, and design of soakaways.

Appropriate Assessment Screening was carried out and concluded that there is no likely potential for significant effects to any Natura 2000 site.

A second Planner's Report (dated 14th January 2022) refers to the further information submitted and considered that clarification of the additional information should be sought in relation to the proposed entrance.

A third Planner's Report (dated 7th March 2022) refers to the further information submitted and considered that, having regard to the clarification of additional information, permission should be refused.

3.4.2. Other Technical Reports

Conservation Officer: The initial report dated 1st July 2021 outlined concerns in relation to the scale and impact of the proposed entrance and driveway. The second report dated 13th January 2022 outlined concerns about the treatment of the proposed entrance and sought a proposal for use of the existing entrance. The third report dated 7th March 2022 recommended that permission be refused.

Area Engineer: The initial report dated 1st July 2021 highlighted concerns in relation to the achievement of sightlines, the location of bored wells, treatment of wastewater and the disposal of surface water. The second report dated 11th January 2022 recommended that permission be granted. Conditions recommended.

Ecologist: The initial report dated 30th June 2021 outlined concerns about the loss of mature trees and requested a revised site layout plan with input from an arboriculturist. The second report dated 13th January 2022 recommended that permission be granted. Conditions recommended.

3.5. **Prescribed Bodies**

None.

4.0 **Planning History**

4.1. **Adjacent sites:**

P.A. Ref. No. 10/5026: Permission granted for a house on a site to the south.

P.A. Ref. No. 17/5833: Permission granted for a house on a site to the southwest.

ABP-313202-22 (P.A. Ref. No. 215285): Concurrent appeal by Anthony Neville for permission for a two-storey house on the site immediately to the west.

ABP-313670-22 (P.A. Ref. No. 215565): Concurrent First Party appeal for permission for 20 no. houses on the site immediately to the east.

5.0 **Policy Context**

5.1. **Architectural Heritage Protection – Guidelines for Planning Authorities (2011)**

5.1.1. **Curtilage and Attendant Grounds**

13.1.1 – “The notion of curtilage is not defined by legislation, but for the purposes of these guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure.”

13.2.1 – “The attendant grounds of a structure are lands outside the curtilage of the structure but which are associated with the structure and are intrinsic to its function, setting and/or appreciation.”

5.2. **Cork County Development Plan 2022-2028**

I draw the Board's attention to the adoption of the Cork County Development Plan on 25th April 2022, which came into effect as the statutory plan for the county on 6th June 2022.

- 5.2.1. Bandon is designated as a Ring Town in the Network of Settlements under the Settlement Strategy for County Cork. The site has a land use zoning of '**Existing Residential / Mixed Residential and Other Uses**'.

Objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses

The scale of new residential and mixed residential developments within the Existing Residential/Mixed Residential and Other Uses within the settlement network should normally respect the pattern and grain of existing urban development in the surrounding area. Overall increased densities are encouraged within the settlement network and in particular, within high quality public transport corridors, sites adjoining Town Centres Zonings and in Special Policy Areas identified in the Development Plan unless otherwise specified, subject to compliance with appropriate design/amenity standards and protecting the residential amenity of the area.

- 5.2.2. The appeal site is within the grounds of a protected structure, namely **RPS No.704 Oaklands Country House**.

Objective HE 16-14: Record of Protected Structures

- a) The identification of structures for inclusion in the Record will be based on criteria set out in the Architectural Heritage Protection Guidelines for Planning Authorities (2011).
- b) Extend the Record of Protected Structures in order to provide a comprehensive schedule for the protection of structures of special importance in the County during the lifetime of the Plan as resources allow.
- c) Seek the protection of all structures within the County, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. In accordance with this objective, a Record of Protected Structures has been established and is set out in Volume Two Heritage and Amenity, Chapter 1 Record of Protected Structures.

- d) Ensure the protection of all structures (or parts of structures) contained in the Record of Protected Structures.
- e) Protect the curtilage and attendant grounds of all structures included in the Record of Protected Structures.
- f) Ensure that development proposals are appropriate in terms of architectural treatment, character, scale and form to the existing protected structure and not detrimental to the special character and integrity of the protected structure and its setting.
- g) Ensure high quality architectural design of all new developments relating to or which may impact on structures (and their settings) included in the Record of Protected Structures.
- h) Promote and ensure best conservation practice through the use of specialist conservation professionals and craft persons.
- i) In the event of a planning application being granted for development within the curtilage of a protected structure, that the repair of a protected structure is prioritised in the first instance i.e., the proposed works to the protected structure should occur, where appropriate, in the first phase of the development to prevent endangerment, abandonment and dereliction of the structure.

5.3. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 sites are Courtmacsherry SAC (Site Code: 001230) and Courtmacsherry SPA (Site Code: 004219) which are located approximately 8.8km to the south of the appeal site.

5.4. EIA Screening

Having regard to the nature and scale of the proposed development, its location within a serviced town setting, and separation from sensitive environmental receptors, I am satisfied that no likely significant impacts on the environment arise from the proposed development and that the carrying out of an EIA is not required in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal are submitted by James Neville, The Lodge, Oaklands, Doherty's Road, Gully, Bandon, Co. Cork. The main points made can be summarised as follows:

- Contends that it is open to interpretation whether the proposal is within the curtilage of Oaklands House and that the appeal site is outside of this curtilage.
- Contends that the proposed development has no impact on the protected structure as it is not visible from it.
- Contends that the Council's proposal to access the proposed development via the existing avenue to Oaklands House would have a significant negative impact on the curtilage of Oaklands House.
- Gives an example where two entrances have been used in harmony at Barry's Hall House, Timoleague, Co. Cork (NIAH Ref. No.20913603).

6.2. Planning Authority Response

The Planning Authority state that all the relevant issues have been covered in the technical reports and have no further comment to make.

7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Principle of Development
- Impact on Protected Structure
- Appropriate Assessment

7.1. Principle of Development

7.1.1. Under the recently adopted Cork County Development Plan 2022-2028, the appeal site has a land use zoning of 'Existing Residential / Mixed Residential and Other Uses'. It is stated in the Plan that the objective of this land use zoning is 'to conserve and enhance the quality and character of established residential communities and protect their amenities' and that the scale of new residential developments within the settlement network should normally respect the pattern and grain of existing urban development in the surrounding area.

7.1.2. Given the character of residential development in the area, I am satisfied that the principle of the proposed house is acceptable. I am also satisfied that the contemporary design with good siting within a mature setting in proximity to a protected structure is also acceptable. Having regard to the zoning objective for the site, the nature and scale of the development I consider that the proposed development is in accordance with the zoning objectives of the Cork County Development Plan. I, therefore, consider that the proposed development is acceptable in principle.

7.2. Impact on Protected Structure

7.2.1. The reason for refusal within the Planning Authority's notification of decision is clear that the substantial issue with the proposed development is that the proposed entrance and entrance road would have a significant negative impact on the historic demesne which forms part of the curtilage of Oaklands House, a protected structure. The First Party contends that the appeal site is outside of this curtilage and that the proposed development has no impact on the protected structure as it is not visible from it.

- 7.2.2. The Architectural Heritage Protection guidelines are clear when specifying special features for protection within the curtilage of a protected structure. It is stated in section 13.4.1 of the guidelines:
- “The features used to define the boundaries of a protected structure can often make an important contribution to the quality and character of the building and the surrounding streetscape or landscape. Such structures may include rubble, brick or rendered boundary walls, metal or timber railings on stone or brick-plinth walls, gate piers of iron, brick, ashlar or rubble and gates of iron or timber.”
- 7.2.3. I consider that the boundary forms part of the protected structure, and I am satisfied that the entire appeal site is within the curtilage of the protected structure as it forms part of ‘the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure’ per the definition within the Architectural Heritage Protection guidelines.
- 7.2.4. The proposed development of an entrance and associated access road involves the removal of approximately 30m of the existing roadside boundary. I consider that this roadside boundary forms an intrinsic part of the setting of the country house and its removal, in such close proximity to the main access to the country house, would have a significant negative impact on the historic demesne associated with Oaklands House.
- 7.2.5. I also consider that the alternative solution, referenced in Cork County Council’s Conservation Officer’s report, of using the existing main entrance to Oaklands House to access the appeal site as viable. I disagree with the appellant’s contention that such a solution would have a greater negative impact on the setting of the protected structure as I am satisfied that an access off the existing driveway could be designed in a sensitive manner.
- 7.2.6. I note the reference by the appellant to Barryshall House near Timoleague, Co. Cork as an example where two entrances have been used in harmony. The Board should note that Barryshall House is not a protected structure and I consider that any comparison with the proposals under this appeal would not be a like-for-like comparison and should not be given significant weight in the consideration of this appeal.

7.2.7. In conclusion, I agree with the planning authority and consider that the proposed entrance and access road associated with the proposed development would have a significant negative impact on the historic demesne which forms part of the curtilage of a protected structure, and I recommend that the proposal be refused on this basis.

7.3. Appropriate Assessment

7.3.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, an urban and fully serviced location remote from any European site and the absence of any direct or indirect pathway between the appeal site and any European site, 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.

8.0 Recommendation

I recommend that permission be refused for the reason stated below.

9.0 Reasons and Considerations

The proposed interventions to the historic boundary treatment, and the resulting loss of historic fabric and significant changes to the grounds, would materially and adversely affect the character and setting of the Protected Structure and would have a significant negative impact on the historic demesne which forms part of the curtilage of a protected structure. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

Liam Bowe

Planning Inspector

3rd November 2022