



An
Bord
Pleanála

Inspector's Report ABP-313423-22.

Development	Retention of single storey domestic store to side of dwelling.
Location	10 Cluain Ard, Monacnappa, Blarney, Co. Cork
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/40764.
Applicant(s)	Paul O'Leary.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Hilary & Michael Walsh.
Observer(s)	None.
Date of Site Inspection	22/09/2022.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The appeal site is located approximately 350m to the north of the centre of the town of Blarney and approximately 5km to the north west of Cork City. The subject site has a stated area of 0.09 hectares and is currently occupied by an existing single storey detached house which is located at the end of a cul-de-sac within the wider Cluain Ard residential estate. The house faces east, with the rear garden facing west. The building the subject of this third-party appeal lies to the north of the house and towards the rear boundary of the houses which comprise part of the Brackenwood residential estate. The houses in this estate in the vicinity of the subject site have a northern aspect to the front of the houses with the rear gardens having a southern aspect. There is a significant change in site levels between the adjacent property and the subject site.
- 1.2. The building the subject of this appeal has a stated floor area of 52m² and comprises a timber framed almost flat roofed structure. The building rises to a height of 2.61m on the northern elevation to 2.8m on the southern elevation (beside the existing house on the site). There is a path between the existing house and the building the subject of this retention appeal and it is submitted that the structure has been constructed approximately 3m from the northern site boundary. The building has two distinct areas including a games room and a gym/garden store. I noted on the date of my site inspection that the building has not been fully completed.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the retention of a single storey domestic store to the side of the existing dwelling, comprising games room and garden store/gym, all at 10 Cluain Ard, Monacnappa, Blarney, Co. Cork.
- 2.2. The application included the following documents:
 - Plans and particulars
 - Completed planning application form
 - Cover Letter.

2.3. Following a request for FI, the applicant submitted proposals to landscape the northern boundary of the site. The submission also notes that the applicant did not remove the original sod and stone boundary and advises of issues relating to the encroachment into his property. The planting appears to have been undertaken.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 13 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, planning history the County Development Plan, and local area plan policies and objectives. The report also includes an EIA, Appropriate Assessment Screening assessment and Flood Risk Assessment.

The Planning Report considers that having regard to the residential zoning and the established residential use, the principle of the development is acceptable. Key issues are noted to relate to the potential for impacts on residential amenity and visual impacts. In terms of overshadowing, the report is satisfied that the development does not result in loss of light / overshadowing to existing windows of third party properties. Any overshadowing of private amenity space is likely confined to the steep bank at the rear of the gardens. A shadow analysis submitted as part of planning application PA ref 16/7122 (ABP ref: PL04.248614 - relating to the parent permission for the wider estate development) indicated that the existing steep inclines, existing hedgerows and ground level differences results in existing shadowing. In addition to the above, the POs report considers that the height of the development is within the conditions / limitations of Schedule 2, Part 1, Class 3 of the Planning and Development Regulations and concludes that the difference in shadowing resulting from the development is negligible.

There are no issues of overlooking arising. In terms of visual impacts, the removal of the sod and stone boundary is noted. This boundary was conditioned to be retained under the parent permission and supplemented with a post and wire fence. The report considers that the provision of suitable boundary treatment such as planting / hedging would reduce the visual impacts of the development. Further information was required in this regard.

Following the submission of the response to the FI request, which included proposals to provide a hawthorn hedge along the northern boundary of the site and to reinstate the post and pane fence on the applicant side of the new planting. The report recommends that permission be granted. This planning report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

Area Engineer: The report advises no objections to the proposed development subject to conditions.

Contributions Report: No objections subject to compliance with conditions.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Submissions

There are three third-party submissions noted on the Planning file. The issues raised are summarised as follows:

- The unauthorised nature of the development.
- The building is visible from adjacent driveways (Brackenwood) due to the magnitude of the structure.
- The expected garden foliage is absent from the site while all other overlooking properties in Cluain Ard have maintained.
- Impact of the development on the outlook of the adjacent garden to the south.
- The size of the shed is above the legal size of exemption and does not fit in with the surrounding landscape.

- The building overshadows the objectors southern aspect garden, and the bank and is an eyesore, impacting on the value of the adjacent property.
- Safety concerns raised as the foundation of the shed has been raised using gabions and the proximity to the steep bank into the garden.
- The erection of a fence beside the shed only adds to the problem.
- The use of artificial foliage is at odds with the garden foliage and is not in keeping with the surroundings.

4.0 Planning History

The following is the relevant planning history pertaining to the site:

ABP ref: PL04.24861 (PA ref: 16/7122): Permission granted for Cluain Ard residential development - comprising the demolition of dwelling and construction of 88 residential units with creche, surface water attenuation tank, vehicular entrance, landscaping and all associated site works.

Enforcement:

REF E8225: The construction of a detached shed to the side of the house does not qualify for Class 3 exempted development provisions under the P&D Development Regulations 2001 as amended.

Adjacent sites:

PA ref: 17/4528: Permission granted for the construction of a single-storey extension to the rear and side of No. 32 Bracken Wood, Knockacorbally, Blarney, Co. Cork.

PA ref: 19/4034: Permission granted for the construction of a single-storey extension to the rear of No. 23 Bracken Wood, Knockacorbally, Blarney, Co. Cork.

PA ref: 19/5228: Permission granted for the construction of a two-storey extension to the front, side and rear of No. 21 Bracken Wood, Knockacorbally, Blarney, Co. Cork.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The Board will note that the Elected Members of Cork County Council made the Cork County Development Plan 2022-2028 and adopted the Plan on the 25th of April 2022. The Plan came into effect on the 6th of June 2022. It is noted that the application, the subject of this appeal, was submitted under the provisions of the previous County Development Plan. It is further noted that the application was considered against the provisions of the Blarney Municipal District Local Area Plan 2017. The Board will note that the adoption of the 2022 Cork County Development Plan replaces both these policy documents.
- 5.1.2. In tandem with the making of the Cork County Development Plan 2022-2028, the Board will note that the Cork City Development Plan was made for the same period of time and sets out how the city will grow and develop over the next six years, while complementing a longer 2040 vision. For the first time, this statutory plan also encompasses the towns of Ballincollig, Blarney, Tower and Glanmire, and their wider hinterland areas. As such, the subject appeal is required to be assessed under the provisions of the Cork City Development Plan and not the Cork County Development Plan 2014-2020.
- 5.1.3. The subject site is located to the north of the urban centre of Blarney and on lands zoned ZO 01 – Sustainable Residential Neighbourhoods, where it is the stated objective ‘to protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses’.

5.2. Natural Heritage Designations

The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Cork Harbour SPA (site code 004030).

5.3. EIA Screening

- 5.3.1. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a number of classes

of development within urban areas including the construction of more than 500 dwelling units or urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.

5.3.2. The proposed development comprises the retention of a 52m² domestic store to the side of a house in the urban area of Blarney, Co. Cork, on a site of 0.09ha. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.3.1. With regard to the provisions of the Planning and Development Act 2000 (as amended) with regard to sub-threshold developments, and having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Blarney,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The grounds of appeal reflect those concerns raised to the PA during its assessment of the proposed development and are summarised as follows:

- The shed exceeds the exemption planning requirements.
- Damage to landscape character and visual impact
- Negative impacts on the value of adjacent properties.

- Safety concerns due to the proximity of the foundations to the appellants boundary and the use of gabions.
- The scale of the building is an eyesore and makes the garden dark and gloomy.
- Stress and negative impact on neighbours and their home.

The appeal includes a number of enclosures including photographs and it is requested that permission be refused.

6.2. **Planning Authority Response**

None.

6.3. **First Party Response to Third Party Appeal**

None.

6.4. **Observations**

None.

7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the development the subject of this application and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Residential & Visual Amenity Issues
3. Other Issues
4. Appropriate Assessment

7.1. Principle of the Development:

- 7.1.1. The subject site lies within the settlement boundary of the town of Blarney in Co. Cork. The proposed development comprises the retention of a domestic / garden store, with a stated floor area of 52m², to the side of an existing house. The location of the building lies approximately 3m from the northern side boundary which is a shared boundary with houses located on an adjacent residential estate. The shared boundary comprises the side boundary of the current appeal site, and the rear boundary of the adjoining properties. There is a significant level difference between the subject appeal site and the rear gardens to the north and the gardens include a steep bank feature within the private amenity space.
- 7.1.2. In terms of the principle of the development, I would note no objections given the context of the subject site and the surrounding property. The Cork City Development Plan 2022 zones the lands ZO 01 – Sustainable Residential Neighbourhoods, where it is the stated objective ‘to protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses’.
- 7.1.3. Having regard to the layout of the site, I consider that the principle of the development is both reasonable and acceptable as proposed.

7.2. Residential & Visual Amenity Issues

- 7.2.1. In terms of the impact of the development on existing residential amenity, the Board will note the concerns of the third-party appellant. While I acknowledge the submission, and having regard to the existing site boundaries, together with the variation in existing site levels, with the appellants property located at a lower level, I am satisfied that the development, if retention is permitted, will result in any significant overlooking of adjacent private amenity spaces as there are no windows proposed on the northern elevation.
- 7.2.2. I note the concerns raised in the third-party appeal in relation to overshadowing of adjacent private amenity space. In considering this matter, I note the planning history of the subject site as part of the wider Cluain Ard residential development. In particular, I note the existing context of the appellants rear garden, which has always had a steep bank along the rear boundary. While I am not clear on the overall height of the previous boundary hedging in this area of the rear garden, I note that the

south facing rear garden, by reason of the change in site levels, would have been subjected to a certain amount of overshadowing in the absence of the store the subject of this retention application. This is evidenced in the photographs submitted with the third-party appeal.

- 7.2.3. The building the subject of this appeal has a stated floor area of 52m² and comprises a timber framed almost flat roofed structure. The building rises to a height of 2.61m on the northern elevation to 2.8m on the southern elevation (beside the existing house on the site). There is a path between the existing house and the building the subject of this retention appeal and it is submitted that the structure has been constructed approximately 3m from the northern site boundary. The building has two distinct areas including a games room and a gym/garden store and there are no water services proposed. The building is finished in PVC cladding panels finished in a grey colour while the roof is finished in profiled metal sheeting.
- 7.2.4. Having regard to the information available, and in particular, the overall height and finish of the building to be retained, its separation from the site boundary and the landscaping proposals for the northern boundary, I am satisfied that the proposed development is unlikely to have any significant impacts in terms of sunlight, daylight or overshadowing of existing properties. There are no significant impacts on existing residential amenity therefore envisaged.
- 7.2.5. In terms of the loss of the sod and stone boundary, I note that there are differing opinions in the submissions. In terms of the subject development, the Board will note the intention of the applicant to plant a hawthorn hedge along the northern boundary and to reinstate the fence between the site and the appellants property. I note that the PA considered this proposal acceptable in terms of addressing potential visual impacts, and I would agree. The planting appears to have been undertaken and the fence has been reinstated. A condition should be included in any grant of permission requiring confirmation of this.
- 7.2.6. In terms of the residential amenity of appeal site residents, the Board will note that the site includes a private area of open space to the rear of the house which includes a lawned area and a patio area. In the context of the site location, I am satisfied that the proposed development is acceptable in this regard.

7.3. Other Issues

7.3.1. Roads & Traffic

There are no roads and traffic matters arising in relation to the subject appeal.

7.3.2. Water Services

The proposed development will include any water services. I have no objections therefore, to the proposed development from a water services perspective.

7.3.3. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.4. Appropriate Assessment

Introduction:

- 7.4.1. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Cork Harbour SPA (site code 004030).

Screening for Appropriate Assessment

- 7.4.2. There are no water services proposed to connect to the building the subject of this retention application. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application and did not submit a Natura Impact Statement. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. The closest Natura 2000 site is the Cork Harbour SPA (site code 004030).
- 7.4.3. I am satisfied that the above site can be screened out in the first instance, as it is located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated

site to the development site and therefore, I conclude that no significant impacts on the Cork Harbour SPA (site code 004030) is reasonably foreseeable and that it can be excluded at the preliminary stage for the following reasons:

- Site is located entirely outside the EU site and therefore there is no potential for direct effects.
- No habitat loss arising from the proposed development.
- No disturbance to species.
- No pathways for direct or indirect effects.

In Combination / Cumulative Effects

7.4.4. Given the nature of the proposed development, being the retention of a domestic store on an urban and serviced site within the built-up area of Blarney, I consider that any potential for in-combination effects on water quality of any of the Natura 2000 site can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in any of the identified Natura 2000 sites via rivers and other surface water features are also subject to AA.

Conclusion on Stage 1 Screening:

7.4.5. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

8.0 Recommendation

- 8.1.1. Having regard to the information submitted in support of the appeal, together with all other matters and details on the file, I recommend that permission be granted for the development subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Cork City Development Plan 2022, the established residential use of the site and land in the vicinity of the site, the pattern of development in the vicinity and the scale of the development as proposed, it is considered that the proposed development works, and subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would not, therefore, be contrary to the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 07th day of March 2022 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 structure to be retained on the site shall be used solely for uses incidental to the enjoyment of the house and shall not be used as a habitable space or commercial premises without a prior grant of planning permission for such use.

Reason: To restrict the use of the garage in the interest of the proper planning and sustainable development of the area.

3. Within three (3) months of receipt of this grant of planning permission, the developer shall undertake the landscaping and boundary treatment works on the northern boundary as set out in Drawing No. 1194 AP-001, submitted to the planning authority on the 07th day of March 2022. Photographic evidence of the completed works shall be submitted to the Planning Authority within this timeframe.

Reason: In the interest of residential and visual amenity.

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 or 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 development control and the amenities of the area.

5. The external finishes of the proposed building (including roof tiles/slates) shall be finished in accordance with the requirements of the Planning Authority. 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.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 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.

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, 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.

A. Considine
Planning Inspector
09/11/2022