



An
Bord
Pleanála

Inspector's Report

ABP-313666-22

Development	Demolition of existing single storey dwelling house, and the construction of a replacement 4 bedroom, 1.5 storey dwelling house.
Location	St Anthony's, Coolflugh, Kerry Road, Tower, Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2240945
Applicant(s)	Whitebon Developments Limited
Type of Application	Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party Appeals
Appellant(s)	Anthony Morrissey Mary Holly
Observer(s)	None
Date of Site Inspection	14 th October 2022
Inspector	Susan Clarke

1.0 Site Location and Description

- 1.1.** The rectangular shaped appeal site is approximately 0.077 ha and is located approximately 0.5km north west of Tower. Tower is a small village settlement located approximately 3.5 km west of Blarney in north County Cork.
- 1.2.** Although the local area is rural, the immediate area comprises a number of single storey dwellings in close proximity to the site. Furthermore, there are a row of single storey dwellings located on the opposite side of the Kerry Road to the subject site.
- 1.3.** There is an existing single storey house (105 sq m), known as St. Anthony's, situated on the appeal site. The Applicant states that the dwelling was constructed in the 1970s. There is a low boundary wall located to the front of the site and a mature hedgerow including a large leylandii tree along the northern boundary. A capped, stepped wall borders the site to the south.
- 1.4.** The context of the subject site is presented in the appendix to this report which includes, maps and a number of photographs taken on the day of my site inspection.

2.0 Proposed Development

- 2.1.** The proposed development consists of the demolition of an existing single storey dwelling and ancillary outhouse and the construction of a new 1.5 storey, 4-bedroom, dwelling (222.8 sq m) with ancillary soakaways.

3.0 Planning Authority Decision

3.1. Decision

The Local Authority issued a Notification of Decision to Grant Permission on 10th May 2022 subject to 8 No. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report (10th May 2022) is consistent with the decision of the Planning Authority.

The Planning Officer considered that the proposed development in terms of the policy context and zoning objective afforded to the site under the Cork County Development Plan, 2014-2020 and Blarney/Macroom Municipal District Local Area Plan 2017 and stated that the principle of the development was acceptable as the proposal relates to a replacement dwelling. The Officer stated that the proposed height was to be acceptable and the design and external finishes are in keeping with the adjoining developments. Furthermore, the Officer contended that the separation distances to neighbouring dwellings was acceptable and there was sufficient garden space proposed.

3.2.2. Other Technical Reports

Area Engineer (16th May 2022): No objection subject to condition.

Development Contributions (5th May 2022): No objection subject to condition.

Environment Report (30th March 2022): No objection, subject to condition.

3.3. Prescribed Bodies

Irish Water (12th April 2022): No objection subject to condition.

3.4. Third Party Observations

- 3.4.1. Two Third-Party Observations were submitted to the Local Authority opposing the proposed development. The key points raised in the Observations are set out in the Third-Party Appeals. See Section 6 below.

4.0 Planning History

4.1. Reg. Ref. 17/6005; ABP Ref. 249396

The subject site forms part of a larger parcel of land which in April 2018 An Bord Pleanála refused permission for the construction of 19 No. dwellings. The Board deemed the proposal was contrary to the National Planning Framework and Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities due to the rural location of the lands. The existing dwelling on the subject site was to be retained as part of the proposed development.

4.2. Reg. Ref. 186106

CCC granted planning permission for construction of a single storey detached dwellinghouse, and waste water treatment system on the lands immediately northwest of the subject site in December 2018, subject to 18 No. conditions.

4.3. Reg. Ref. 19/4718

4.4. Following the 2018 refusal (Reg. Ref. 17/6005; ABP Ref. 249396), CCC granted planning permission for 12 No. dwellings on the lands. The existing dwelling on the subject site (and the neighbouring dwelling northwest of the site) did not form part of this application.

4.5. Reg. Ref. 21/1812

Section 96 Social Housing Exemption Certificate Reg. Ref. 22/1849: A Social Housing Exemption Certificate was issued by the Local Authority in respect of the proposal on 6th April 2022.

5.0 Policy Context

5.1. Local Policy Context

5.1.1. The subject site is now sited within the jurisdiction of Cork City Council, having been subject to a boundary extension / transfer with Cork County Council. The relevant development plan is the Cork City Development Plan 2022-2028, which was adopted on 27th June 2022 and came into effect on 8th August 2022.

5.2. Cork City Development Plan 2022-2028

5.2.1. The site is zoned ZO 20 City Hinterland which aims ***To protect and improve rural amenity and provide for the development of agriculture*** (see Map 18). [Bold: my emphasis.]

5.2.2. ZO 20.4 of the Development Plan states:

Single housing in the City Hinterland will be facilitated only where the objectives and requirements on rural housing set out in Chapter 3 Delivering Homes and Communities are met. Housing must be based on exceptional rural housing need and on the core considerations of demonstrable

economic or social need to live in a rural area. Other considerations including siting and design criteria are also relevant. [Bold: my emphasis.]

5.2.3. Objective 11.12 (Replacement Dwelling) states:

To discourage the demolition and replacement of existing building stock of a vernacular quality, which should be retained and refurbished. Where a dwelling or building of significant vernacular quality is proposed to be demolished, an architectural conservation report by a qualified conservation architect should be submitted as part of any planning application. [Bold: my emphasis.]

5.2.4. Section 11.136 further states in relation to replacement dwellings:

*The demolition of built heritage assets should be a final resort. Any such proposals to demolish an existing building and replacement will have to be strongly justified by the applicant with advice from an accredited conservation practitioner. **As part of a planning application for any such proposal the applicant will have to provide a strong justification as to why the structure is to be demolished in addition to meeting the requirements of other relevant policies (e.g. Policy 3.13: Rural-Generated Housing).***

5.2.5. Objective 3.13 Rural-Generated Housing states:

a. To sustain and renew established rural communities, by facilitating those with a rural generated housing need to live within their rural community (see Objective 11.9 – One-Off Housing: Demonstrable Need to Reside on Landholding);

b. To discourage urban generated housing in the City Hinterland;

c. The City Hinterland is the area under strongest urban generated pressure for rural housing. Therefore, single rural housing applicants must satisfy Cork City Council that their proposal constitutes an exceptional rural generated housing need and satisfies all the requirements of this Plan. Any application for the development of a single rural dwelling must set out a comprehensive and conclusive demonstrable economic or social need to live in a rural area. [Bold: my emphasis.]

- 5.2.6. Section 11.153 addresses the Demolition of Existing Residential Dwellings and states *inter alia* that the Council has a preference for the deep retro-fit of structurally sound, habitable dwellings as opposed to demolition and replacement unless a strong justification in respect of the latter has been put forward by the applicant.

5.3. Blarney/Macroom Municipal District Local Area Plan 2017

The Blarney Macroom Municipal District LAP sets out planning strategy and land use zoning as appropriate for the towns and villages of the Municipal District, including Tower.

The site is located within the Settlement Boundary of the LAP, but it is not zoned for 'Residential' development.

Objective DB01 states: *Within the development boundary encourage the development of up to 182 additional dwelling units during the plan period.*

5.4. Natural Heritage Designations

The closest designated site is the Cork Harbour SPA (004030), which is located approximately 13.8km as-the-crow-flies from the subject site.

5.5. EIA Screening

Having regard to the nature and scale of the proposed development, comprising the demolition and replacement of a residential dwelling, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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. Two third-party appeals were lodged by Anthony Morrissey (No. 8 Lia Fail, Kerry Road, Tower, Cork) and Mary Holly (Aghana, Old Kerry Road, Tower, Blarney, Co. Cork) opposing the Local Authority's decision. The grounds of appeal are summarised below.

6.1.2. Anthony Morrissey's ground of appeal can be summarised as follows:

- In the assessment of Reg. Ref. 17/6005, the Local Authority's Planner stated that the maximum number of dwellings on the lands (which included the subject site) must not exceed 13 dwellings. The current proposal would result in this number being exceeded and overdevelopment of the area.
- No public consultation.
- The existing dwelling has not been used as a residence for some time but is instead used as an office as registered with the Companies Registration Office. As such, a change of use is also being proposed.
- Proposal will result in a significant loss of privacy, particularly due to the proposed rear bay window, to No. 8 Lia Fail which is contrary to planning policy.
- Proposal will severely negatively affect the level of sunlight and daylight received by No. 8 Lia Fail.
- Proposal includes the felling of a mature tree on the site and so is contrary to the Local Authority's Climate Change Adaption Strategy 2019-2024, the Development Plan, and Tree Strategy.
- No rationale provided for the demolition of the existing dwelling which is of sound condition, looks well and is habitable. As such, the proposal is contrary to Section 11.154 of the Development Plan.
- Queries whether the proposal is subject to Part V requirements having regard to the fact that permission was granted for Reg. Ref. 18/06106.
- There are 10 No. parking spaces available on the site, not two as stated by the Applicant.

6.1.3. Mary Holly's ground of appeal can be summarised as follows:

- The proposed dwelling is unduly prominent and visually obtrusive from Aghana.
- The proposed dormer window will result in a serious loss of privacy.

6.2. Applicant Response

6.2.1. The Applicant submitted a First-Party Response to the Board on 27th June 2022.

6.2.2. The key points from the Response can be summarised as follows:

- The proposed development will not result in an increase in the number of existing or permitted dwellings.
- The existing dwelling was constructed in the 1970s and is considered of unremarkable quality, containing no features of architectural merit that would warrant its restoration. The proposal does not contribute to the streetscape nor is it identified as being of local or national significance.
- Retaining and adapting the existing dwelling was not considered feasible due to the nature and condition of the dwelling.
- The proposed dwelling will provide a high-quality environment for future occupants. One of the main benefits includes the upgrade of the building energy rating.
- The proposal will not result in detrimental impacts to the amenities of any neighbouring property and the scale and design of the replacement dwelling, largely reflects that of the existing dwellings.
- The building line and dormer window will not impact residential amenities. The dwelling has been designed to minimise overlooking of adjacent properties. Generous separation distances are provided between the houses, including a distance of 24.4m between the proposal and Mr. Morrissey's dwelling.
- No. 8 Lia Fail has a higher finished floor level of circa 0.6m than the proposed dwelling and as such there will be no loss of light or detrimental impact on residential amenity.

6.3. Planning Authority Response

No response received.

6.4. Observations

None.

6.5. Further Responses

Mary Holly made a further observation to the Board on 15th June 2022 stating that the proposal is contrary to Section 11.153 (Demolition of Existing Residential Dwellings) of the Development Plan. Furthermore, Ms Holly states highlights that the Development Plan requires that *all proposals will be required to demonstrate that they have been designed to avoid overlooking* and she supports Anthony Morrissey's grounds of appeal.

7.0 Assessment

Having examined the application details and all other documentation on file, inspection of the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues on this appeal are as follows:

- Rural Housing Policy
- Principle of Development
- Impact on Residential Amenities
- Other Matters
- Appropriate Assessment.

Each of these issues is addressed in turn below.

7.1. Rural Housing Policy – New Issue

The site is zoned ZO 20 City Hinterland which aims *To protect and improve rural amenity and provide for the development of agriculture*. As outlined above, Objective 3.13 Rural-Generated Housing states *inter alia: The City Hinterland is the area under strongest urban generated pressure for rural housing. Therefore, single rural housing applicants must satisfy Cork City Council that their proposal constitutes an exceptional rural generated housing need and satisfies all the requirements of this Plan. Any application for the development of a single rural dwelling must set out a comprehensive and conclusive demonstrable economic or social need to live in a rural area*. ZO 20.4 of the Development Plan states: *Single housing in the City Hinterland will be facilitated only where the objectives and requirements on rural housing set out in Chapter 3 Delivering Homes and Communities are met*. Furthermore, Section

11.136 of the Development Plan requires that as part of a planning application for a replacement dwelling, the applicant will have to provide a strong justification as to why the structure is to be demolished in addition to meeting the requirements of other relevant policies (e.g. Policy 3.13: Rural-Generated Housing).

The Applicant in this instance is a registered company, Whitebon Development Limited (8244471W). No details have been provided with the planning application regarding the future residents of the replacement dwelling and how they comply with rural housing policy. As such, there is insufficient information on the file to determine the appeal case in accordance with the relevant rural housing objectives for the site. This is a new issue and the Board may wish to seek the views of the parties.

7.2. Principle of Development

Demolition of Existing Dwelling

- 7.2.1. As outlined above, Section 11.153 addresses the Demolition of Existing Residential Dwellings and states *inter alia* that the Council has a preference for the deep retro-fit of structurally sound, habitable dwellings as opposed to demolition and replacement unless a strong justification in respect of the latter has been put forward by the applicant. The Applicant argues that it did initially explore the feasibility of retaining and adapting the existing structure to provide contemporary family accommodation, however it was not considered feasible due to the nature and condition of the existing dwelling. The Applicant states that the only viable option is to demolish the existing dwelling, which has a poor relationship with the garden to the rear and wider site and internally the dwelling rooms are small, poorly lit and inadequately ventilated. The Applicant highlights that the replacement dwelling will provide a high-quality environment for future occupants and will upgrade the BER rating and as such is consistent with the Development Plan's energy efficiency objectives (Objectives 5.10, 5.14, and 5.15). I concur with the Appellants that a strong justification for the demolition of the existing dwelling has not been presented by the Applicant. As is evident from the photographs attached to this Report, the house is in good structural condition with the roof and windows all intact. The dwelling is fully serviced in terms of water, wastewater, and electrical connections. Furthermore, in principle, the site is sufficiently sized to accommodate an extension should additional floor space be required. Having regard to the foregoing, I consider the proposed development to be contrary to the

Development Plan's policy in the relation to the demolition of existing dwellings (Section 11.136).

- 7.2.2. I note that the Appellants reference Objective 11.12 (Replacement Dwelling) which requires that a conservation report by a qualified conservation architect should be submitted as part of any planning application to demolish and replace an existing building of a vernacular quality. No such assessment has been submitted with the application. However I do not consider the existing dwelling to be of any particular architectural importance and as such, in my view such an assessment is not warranted in this case.

Density

- 7.2.3. Mr Morrissey argues that the proposed development would result in overdevelopment of the area and makes reference to a Local Authority's Planner Report in relation to Reg. Ref. 17/6005, which states that the maximum number of dwellings on the site and the lands to the rear must not exceed 13 No. dwellings. I highlight that this reference is a quotation from a Planner's Report and is not a planning condition or policy objective relating to the lands. I am satisfied that the proposed development, which relates to the provision of a replacement dwelling and as such would not cause any increase in the overall number of dwellings in the area, is acceptable in terms of development density.

7.3. Impact on Residential Amenities

- 7.3.1. In terms of the proposed replacement dwelling's architectural design, scale, form, massing and positioning within the site, I consider it to be consistent with the surrounding dwellings and I am satisfied that it would not cause any adverse visual impacts on the area. I note the Appellants' concerns regarding the potential for overlooking. However having regard to the separation distances between the dwelling and the neighbouring properties, including 24.4m between the rear elevation of the proposed dwelling and No. 8 Lia Fail (Mr Morrissey's residence) and 30m between the front elevation and Aghane (Ms Holly's residence), I do not consider that there would be any significant overlooking that would adversely impact on the area's residential amenity. Furthermore, I note that No. 8 Lia Fail is located on a higher elevation than the existing dwelling which would further alleviate any potential for overlooking.

- 7.3.2. Similarly, due to the separation distances between the proposed development and neighbouring dwellings, the orientation of the site, topography of the area, scale and massing of the replacement dwelling and to the pathway of the sun, I am satisfied that no undue loss of light or overshadowing would occur to the neighbouring property. Furthermore, for similar reasons I am satisfied that the proposed development will not alter the quantum of daylight currently enjoyed by the occupants of neighbouring dwellings.
- 7.3.3. In relation to the felling of the tree on-site, I note that the tree is a mature leylandii, which are of limited ecological value. Whilst I accept that it may provide some visual amenity, I do not consider its felling will significantly impact the area's residential amenity. Furthermore, I do not consider that the loss of one tree is contrary to the Local Authority's Climate Change Adaption Strategy 2019-2024.
- 7.3.4. The proposal includes for car parking to the front of the replacement dwelling. Having regard to the size of the development (i.e. a four-bed dwelling), I do not consider that the proposal will result in any adverse traffic impacts on the area. Furthermore, I note that there is good visibility from the site entrance and as such, I do not consider that the proposal will represent any traffic safety hazard.
- 7.3.5. In conclusion, I am satisfied that the proposed development would not result in undue overbearing impacts, overshadowing or loss of privacy on the neighbouring properties or adversely impact the area's residential or visual amenities.

7.4. Other Matters

Public Consultation

- 7.4.1. Mr Morrissey highlights that the Applicant undertook no public consultation prior to the lodgement of the planning application. Public consultation prior to the lodgement of an application is not mandatory for a project of this size and nature. Furthermore, I note that observations were made to the Local Authority in respect to the proposed development during the relevant statutory consultation periods.

Use of Existing Dwelling

- 7.4.2. Mr Morrissey highlights that the existing dwelling is currently registered and in use as an office. In my opinion, the Board should limit its assessment to the subject development as described in the Statutory Notices and illustrated on the planning

drawings. Any potential unauthorised development are matters for the Local Authority to consider.

Social Housing Exemption

- 7.4.3. The proposed development relates to the replacement of an existing dwelling. I am satisfied that Part V provisions do not relate to the application.

7.5. Appropriate Assessment

The closest designated site is Cork Harbour SPA (004030), which is located approximately 13.8km from the subject site.

Having regard to:

- the nature and scale of the proposed development (i.e. a replacement dwelling which will connect to the public foul system)
- the absence of a direct pathway connecting the subject site to the SPA,
- the nature of the immediate receiving environment,
- the existing use of the site,
- the separation distance between the subject site and the SPA,
- no direct discharge to any surface waterbody,
- the relatively short-term construction phase, and
- no loss, fragmentation disruption or disturbance to European sites or their annexed species either directly or indirectly,

I do not consider that the proposal would be likely to significantly impact the qualifying interests of Cork Harbour SPA (004030). Furthermore, I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on any European site. As such, I consider that no Appropriate Assessment issues arise.

8.0 Recommendation

- 8.1.1. I recommend that permission be refused for the proposed development based on the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, and the site's land use zoning objective ZO 20 City Hinterland, Objective 3.13 Rural-Generated Housing and Section 11.136 (Replacement Dwelling) of the Cork City Development Plan 2022-2028, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the said planning policy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development is inconsistent with the Cork City Development Plan 2022-2028 objectives regarding the demolition of existing residential dwellings whereby the Applicant has failed to provide a strong justification for the demolition of a habitable dwelling. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Susan Clarke
Planning Inspector

20th October 2022