



An
Bord
Pleanála

Inspector's Report ABP-314811-22

Development	Proposed bungalow with shared entrance on part of site of existing bungalow.
Location	Local access road off south side of Church Road, Carrigaline, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	22/5089
Applicant(s)	Emma Hughes, Hugh Duane.
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions.
Type of Appeal	Third Party
Appellant(s)	Vincent Barrett.
Observer(s)	None.
Date of Site Inspection	25 th August 2023
Inspector	John Bird.

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1.0 Site Location and Description

- 1.1. The site is the northern part of the garden of an existing bungalow. Access would be shared with the existing bungalow. The existing bungalow is placed diagonally on the blue line site. The site falls gently to the North-East. The existing entrance is from the west side of an access road leading south to the former Carrigaline boatyard. A housing development, granted on Appeal on the boatyard site, is nearing completion and the access road from Church Road is being re-constructed in accordance with the Conditions of that Permission.
- 1.2. A high hedge separates the proposed site from the Appellant's 2/3-storey dwelling to the north. The Appellant's house has a 3-storey southern gable.

2.0 Proposed Development

- 2.1. Bungalow with connection to existing public services and shared access with existing bungalow on the blue line site.
- 2.2. Clarification of caption error. A photocopy of Drawing No 4, originally date stamped 12th May 2022, is over stamped 15th June 2022. A yellow circle draws attention to a caption error relating to the private open space to be retained for the existing bungalow. This matter is clarified and rectified in the Unsolicited Further Information submitted on 23rd June 2022.

Due to the difficulty in accommodating the originally proposed floor area on the irregular site, the floor area was reduced following a Further Information Request. The Further Information received on 25th August 2022 also stated that the boundary hedge on the north side of the site would be retained and maintained.

- 2.3. The floor level proposed would be lower than those of adjoining dwellings, but the site level would not be reduced in the vicinity of the hedge line between the Applicant's and the Appellant's sites.
- 2.4. The revised proposed North elevation shows one bedroom and one bathroom window.
- 2.5. Foul drainage would be to the public system. A soak pit is proposed for surface water.

3.0 Planning Authority Decision

3.1. Decision Grant subject to Conditions: -

Following the Receipt of Further Information on 25th August 2022, the Decision to Grant included: -

- Condition No. 1 covers the issue of the reduced floor area.
- Condition No. 5 restricts future development by removing Exemption in relation to developments covered by Schedule 2, Part 1, Exempted Development Class 1 and / or Class 3 of the Planning and Development Regulations. A new future Application would be required to overcome this restriction.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Senior Planner's original Report raised issues related to the scale of the proposed bungalow and the restricted nature of the site.

Further Information Received on 25th August 2022 showed a reduced floor area and a greater setback from the Appellant's boundary. A recommendation was made to Grant Permission subject to Conditions.

3.2.2. Other Technical Reports.

The Ecologist's Report dated 06/07/2022 notes the proximity to the Cork Harbour Special Protection Area (Code 004030) but has no concerns relating to the SPA or any other Natura 2000 Site.

Uisce Éireann has no objection.

Area Engineer's Report dated 01/07/2023 refers to foul sewage disposal to public sewer network and to need for surface water soakaway. Access and parking are acceptable.

4.0 Planning History

ABP-310736-21 refers to a Decision to Grant Permission for a housing development of 39 dwellings on the former Carrigaline Boatyard to the south. Condition No 14 required the prior submission of details of the improvements to the access road and its junction with Church Road.

5.0 Policy and Context

5.1. Development Plan

The relevant Plan is The Cork County Council County Development Plan .2022-2028.

The site is zoned “Existing Residential / Mixed Residential and Other Uses.”

5.2. Natural Heritage Designations

The site is close to the Cork Harbour Special Protection Area Code No. 004030. The site is in a serviced suburban area adjacent to the Carrigaline wastewater treatment plant. The Bord has granted permission for a suburban housing development between the site and the SPA. The Ecologist has raised no objections.

5.3. EIA Screening

5.4. Having regard to the nature and modest scale of the proposed development, its location in a built-up suburban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- The access road is a private road and not a public road as stated in the site notice and advertisement. This description should have been altered following Appellant's original Submission. The Appellant considers that the Application was invalid.
- The Planning Authority continue to refer to the road as a public one. Appellant asks whether the services are private or public and what assessments have been made of capacities.
- Queries Medical Note provided by the Applicant.
- Alternative accommodation could be provided in the Boatyard development.
- No Section 47 Agreement.
- Negative effect on property values. Negative effect on Appellant's home.
- Proposed dwelling could have been positioned on site where it would have less affect on Appellant's dwelling.

6.2. Applicant Response

- Submission sets out reasons for seeking permission adjoining parents' dwelling.
- Regarding the status of the access road, the Inspector's Report on the Boatyard Appeal intermittently refers to it as minor local road, access road, public road.

6.3. Planning Authority Response

- By letter 2nd November 2022 the Planning Authority stated that all relevant technical reports had already been forwarded to the Bord and that it had no further comment to make.

6.4. **Observations**

- No Observer.

6.5. **Further Responses**

None

7.0 **Assessment**

- 7.1. In relation to the Site Notice, Drawing No.3 shows a site notice at the junction with Church Road as well as at the entrance to the site. I am satisfied that the public appeared to have had access to a Site Notice which could be seen from the public road.
- 7.2. Whether or not the access road is private, it is established planning practice that the original description of a development continues throughout the planning process unless a revised site notice is requested. (For example, a housing development of 50 houses could be modified through further information, planning authority decision or by a request from the Bord or a decision of the Bord). I accept that this established practice may cause some public misunderstanding. However, I am satisfied in this instance that the Appellant did not suffer any proven disadvantage by reason of the description of the status of the road. The Appellant raised the issue of validity in his original Submission to the Planning Authority. The PA did not seek a revised notice.
- 7.3. In relation to the provision of services, Uisce Éireann has no objection. The Area Engineer has reported that public foul sewerage is available, while a soakaway will be required for surface water. The status of the road does not appear to affect the provision of services.
- 7.4. The site is adjacent to the Carrigaline Wastewater Treatment Plant and close to the site where the Bord has recently granted a Permission for a housing estate. In these

circumstances I am satisfied that the Area Engineer was in a position to make an informed and valid judgement regarding the capacity to accommodate one additional dwelling.

- 7.5. In relation to implied loss of amenity and residential value, the Appellant's 2/3-storey house is at a higher level than the proposed dwelling. The proposed bungalow will have a reduced ground level, with the ground level at the hedge being maintained. The Applicant's letter states that the hedge will be retained and maintained. I consider that it would be in the Applicant's own interest to do so for reasons of privacy. I therefore do not consider that a solid boundary is required. The Appellant has made no request in this regard.
- 7.6. The Appellant's 2/3-storey house is generally oriented East to West. On the southern gable there are windows at all three levels. The Appellant's first floor and second floor windows are approximately 13 metres from the north face of the revised proposed bungalow. The bungalow is about 9 metres from the Appellant's ground floor extension gable window.
- 7.7. I am satisfied that there will be no serious loss of residential amenity caused to the Appellant.
- 7.8. As this is an application in an urban area appropriately zoned, I do not consider that matters relating to Section 47 or Medical Condition are relevant in the current case. Neither the Appellant nor the Planning Authority have referred to any restrictions in a zoned and serviced area that might give rise to the need for a Section 47 Agreement.
- 7.9. While noting the Medical Certificate, I consider that it is not relevant to the specific location of the site.
- 7.10. The Planning Authority's restrictive Condition No. 5 regarding Exempted Development has not been appealed. The Planning Authority Decision to Grant was based on a reduced floor area and I consider that the Condition be retained. It does not preclude a further Application.
- 7.11. In conclusion, I consider that it was reasonable for the Appellant to query the validity of the Site Notice and to seek information as to whether the status of the road would raise issues in relation to the provision of services.

- 7.12. The Application is site specific and is on family land. The Appellant's suggestion that the Applicants seek accommodation elsewhere does not address the substance of the Application and Appeal and is unhelpful.
- 7.13. I consider that the issues raised by the Appellant in relation to Section 47, to the Medical Certificate and to seeking accommodation elsewhere are close to the criteria for consideration under Section 138, (vexatious Appeal), of the Principal Act (as amended). Were it not for the valid issues considered at 7.11 above I would have made a clear recommendation regarding these latter issues.
- 7.14. **Appropriate Assessment Screening**
- 7.15. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment as a built-up suburban area and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

- 8.1. That the Appeal be dismissed, and that Permission be Granted, generally in accordance with the Conditions of the Planning Authority.

9.0 Reasons and Considerations

Having regard to the Existing Residential/Mixed Residential and Other Uses zoning objective pertaining to the site it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable from a visual amenity perspective and would generally be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 23rd day of June 2022 and 25th August 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Uisce Éireann.</p> <p>Reason: In the interests of public health.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Development described in Classes 1 and / or 3 of Part 1, Schedule 2 of the Planning and Development Regulations 2001-2021 as amended shall not be carried out within the curtilage of the proposed dwellinghouse without a prior grant of planning permission.</p> <p>Reason: In the interest of residential amenity</p>

6.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

John Bird
Planning Inspector

4th November 2023