



An
Bord
Pleanála

Inspector's Report ABP-315004-22

Development	The construction of a dwelling house and all associated site works.
Location	8 Cill Mhuire, Church Hill, Pembroke, Passage West, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	22/5511.
Applicant(s)	Hilda & Tim McCormack.
Type of Application	Permission.
Planning Authority Decision	Grant Permission (20no. conditions).
Type of Appeal	Third Party.
Appellant(s)	Val & Letitia Griffin.
Observer(s)	None.
Date of Site Inspection	20 th April, 2023.
Inspector	Aiden O'Neill.

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1.0 Site Location and Description

- 1.1. The proposed development site is located on elevated lands to the west of Passage West town centre, within a development of 12no. permitted serviced sites, known as Cill Mhuire estate, accessed off an internal private road, of which 7no. individual dwellings (1, 3, 5, 6, 9, 10, and 12 Cill Mhuire) have been constructed to date, and 1no. is under construction (no. 7 Cill Mhuire). A further dwelling, no. 11 Cill Mhuire, has recently been permitted, but construction has not yet commenced. Cill Mhuire is accessed via Beechcourt and Ard Chuain residential estate roads, to the north of Church Hill, Pembroke, Passage West, Co. Cork. The dwellings that have been constructed, or are under construction, to date, comprise a range of designs, and are either single-storey, or single-storey with attic accommodation/split-level, with primarily gable roofs, although no. 3 Cill Mhuire is flat-roofed.
- 1.2. The proposed development site, Site 8, is located in the southern area of Cill Mhuire estate and is 0.069ha in area.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a single-storey dwelling house with bedrooms/bathroom/storage at attic level, and all associated site works.
 - The proposed dwelling house, as permitted by Cork County Council, is c. 235.9sq.m. in area, with front and rear patios overlooking front and rear garden areas, off-street parking, and is to be connected to public services.
 - Existing boundaries to the north, south and east are to be retained, with the existing steel post and chainlink fence forward of the front building line to be reduced by 0.8m to 1.0m with beech hedging to be planted inside. An existing tree to the east (rear) is to be retained and supplemented with an additional 3no. indigenous broadleaf trees. The front (west) boundary will comprise 1.0m rendered and capped block walls and pillars, with beech hedging to be planted inside.
- 2.2. The proposed dwelling house as originally submitted to the Planning Authority on 28th June, 2022 was c.217.2sq.m. in area, and comprised a part two-storey dormer dwelling, with front (west) and rear (east) gables, and two-storey side elevations,

with a FFL of 61.6m and a ridge height of 68.23m, and an overall height of between 6.089-6.63m. The proposed dwelling was positioned c. 10.356m from the eastern boundary.

2.3. The proposed design was revised in a response dated 26th September, 2022 to a Request for Further Information to:

- a single-storey dwelling with attic bedroom accommodation, c. 235.9sq.m. in area, with the front and rear gables removed, and a hipped roof proposed to the northern and southern side elevations to match the front and rear elevations.
- The proposed revised dwelling is positioned c. 10.475m from the eastern boundary.
- A frosted window is proposed at ground level on the northern (side) elevation.
- Roof lights are proposed to the northern (side) and eastern (rear) elevations. One roof light with raised cill levels of 1.8m above floor level is proposed on the eastern elevation. All roof lights are flush with the roof plane.
- Solar panels are proposed on the southern (side) elevation. Smooth white render is proposed to the external walls, as well as dark grey roof slates.
- The ridge height of the revised design is proposed to be maintained at 68.23m, as is the overall height of 6.63m.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission by Order dated 11th October, 2022, subject to 20no. conditions.

The First Schedule of the Order stated that, having regard to the location of the site within a residential area it is considered that subject to compliance with the conditions set out in the Second Schedule, the proposed development would not be prejudicial to the residential amenities of the area and would therefore be in accordance with the proper planning and sustainable development of the area.

Condition no. 2 states:

The proposed development shall comply with the terms and conditions of the Planning Permission Reg. No. 13/5607 (PL.04.242980) which governs the overall development of the lands of which the site forms part, save where amended by the terms and conditions herein.

Condition no. 5 states:

The finished floor level of the dwelling permitted herein shall be in accordance with the plans and particulars submitted to the Planning Authority on 28/06/2022 and as amended on 26/09/2022 i.e. the finished floor level of the dwelling shall not exceed 61.6m.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The primary planner's report dated 15th August, 2022 commented that:

- the proposal for a two-storey dwelling was out of character with the permitted and existing dwellings in the area, and that it contravened condition no. 2 of PA Ref. 13/05607, ABP Ref. PL04.2424980, which stated as follows:

2. The siting, design, and layout of the houses to be served by the site development works herein permitted shall be subject to separate planning application(s). All houses shall be single storey, or single storey with split level floors. No two-storey or dormer houses shall be permitted. Reason: In the interest of clarity and visual amenity.

- A Request for Further Information was recommended addressing the omission of the two-storey element in the design.
- Noting that the proposed ridge height is 68.23m, 2.34m higher than the house to the north and 1.5m higher than the dwelling to the south, the planner commented that she was mindful that the height of the dwelling on site permitted under application register reference 16/4389, as extended under application register reference 21/5227 to 9th August, 2026, was 6.63m, and that the proposed dwelling did not exceed the permitted height. The planner included in the Request for Further Information a request to consider the ridge

height, while acknowledging the permitted height of 6.6m, and stating that there was no objection to same.

In the planner's report dated 11th October, 2022 on the response dated 26th September, 2022 to the Request for Further Information dated 15th August, 2022, it is stated that:

- the proposed dwelling appears single storey but has habitable accommodation at first floor level.
- It is also stated that the ridge height is proposed at 6.63m which is as permitted, and while a lower ridge height would better integrate into the streetscape, the permitted height is 6.6m so this must be accepted.
- It is also stated that the design and location of rooflight windows means the impact on residential and visual amenity has been mitigated.
- In concluding that the proposed development is considered to be in accordance with the proper planning and sustainable development of the area. and permission is recommended subject to 20no. conditions.

EIA was considered to be non-applicable and AA was screened out on the basis of the scale of the development proposed and its siting relative to the Cork Harbour SPA (Site Code: 004030) and Cork Harbour SAC (Site Code: 001058), as well as a lack of hydrological connection.

The planner's reports are the basis for the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

The Area Engineer's report dated 12th August, 2022 stated no objection.

There are no other reports on file, although reference is made in the planner's report to a report from the Estates Engineer stating no comments.

3.2.3. Prescribed Bodies:

Irish Water's submission of 8th August, 2022 stated no objection.

3.2.4. Observations:

One observation was received from Val & Letitia Griffin dated 8th February, 2022 stating the following:

- Concerns about a two-storey house being constructed at close proximity (6.35m) to the main recreation area of their house.
- The main recreation area will be totally overshadowed in the late afternoon.
- With each application that has been submitted, the back wall has moved closer to the boundary. At the same time, distance from the road has increased.
- Site no. 9 (to the south) is not a precedent.
- The proposed 2-storey dwelling will not sit properly between 3no, single-storey properties.
- Ground levels of sites no. 7 and 8 have been raised significantly.
- Trees on the boundary were destroyed.
- Living areas are at first floor directly overlooking site no. 8, raising privacy concerns.
- The proposal for 3no. trees will overshadow their property. Trees should be limited in height.

4.0 Planning History

Subject site:

PA Ref.16/4389. Conditional permission was granted on 10th August, 2016 for the construction of a single-storey hipped-roof dwelling house of c. 205m² in area, and 6.63m in height, at a distance of 10.3m¹ from the eastern boundary, and all associated site works. Permission was extended under PA Ref. 21/5227 to 9th August, 2026.

¹ It is noted in the primary planner's report that the permitted layout under PA Ref. 16/4389 incorrectly labelled the distance to the eastern boundary as 11m, and when measured, it was 10.3m.

PA Ref. 13/05607, ABP Ref. PL04.2424980. Permission for retention and completion of entrance and access road previously permitted under PL04.130502 and permission for 12 serviced sites was granted on 6th June 2014. Relevant conditions include:

2. The siting, design, and layout of the houses to be served by the site development works herein permitted shall be subject to separate planning application(s). All houses shall be single storey, or single storey with split level floors. No two-storey or dormer houses shall be permitted.

Reason: In the interest of clarity and visual amenity.

PA Ref. 12/5129, ABP Ref. PL04.241461. Permission refused for 25 serviced residential sites on 30th April 2013.

5.0 Policy and Context

5.1. Development Plan

In the Cork County Development Plan, 2022-2028, the proposed development site is zoned 'Existing Residential/Mixed Residential and Other Uses'. Zoning objective ZU 18-9 of the Plan states that 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.

5.2. Natural Heritage Designations

The proposed development site is within the screening zone for the Cork Harbour Special Protection Area (SPA) (Site Code: 004030) and Cork Harbour Special Area of Conservation (SAC) (Site Code: 001058), and the and the Monkstown Creek proposed Natural Heritage Area (pNHA 001979).

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of

any connectivity to any sensitive location, 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

- The Third Party appeal by Val & Letitia Griffin dated 1st November, 2022 generally raises the same issues as the submission on the original application.
- The appeal is being made because of the height of the proposed dwelling and the proximity to the Third Party's dwelling.
- If a dwelling is to be permitted, the ridge height should be significantly reduced, and the rear of the property moved forward.
- There will be the potential for overhanging trees.
- The proposed dwelling is out of keeping with the surroundings. The ridge height has been raised from 67.69 to 68.23.
- Alternative sites in Cill Mhuire could have satisfied the applicant's requirements for a two-storey dwelling.
- The proposed development site requires a building that integrates well with the two adjoining single storey dwellings and has regard to the close proximity to the appellant's dwelling.

6.2. Applicant Response

The applicant's response dated 11th November, 2022 states the following:

- The design maximises the living space and amenity space, as well as integrating with the existing and proposed dwellings while complying with existing planning grants.

- The amended design aligns with the original planning grant, and the house appears as single-storey with an attic conversion.
- The proposed development adheres to the previous grant of permission, with a max ridge height of 68.23.
- The new proposal, with the same ridge height as previously permitted, will not contribute to any additional overshadowing.
- The upstairs bedroom design has been very careful to ensure that there is no overlooking from upstairs to the back of the site.
- There are concerns about the appellant's property overlooking the proposed development site, which can be mitigated by appropriate planting, and the applicant would be amenable to a mutually agreed planting scheme.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The main issues, therefore, are as follows:

- Residential Amenity
- Appropriate Assessment

7.2. Residential Amenity

The Third Party raises concerns about the impact of the proposed dwelling, by reason of its height and proximity to the boundary, on their amenities.

Having regard to the concerns raised by the Third Party, it is noted that the proposed dwelling house as originally submitted to the Planning Authority comprised a part two-storey dormer dwelling, with front and rear gables, and two-storey side elevations, with a FFL of 61.6m and a ridge height of 68.23m, and an overall height of between 6.089-6.63m. The proposed two-storey dormer dwelling was positioned c. 10.356m from the eastern boundary.

However, as noted above, the design of the proposed dwelling was revised in a response dated 26th September, 2022.

In addition, the proposed revised dwelling was repositioned c. 10.475m from the eastern boundary, while also being able to accommodate off-street parking, and to align with the building line of no. 7 and no. 9 Cill Mhuire.

Furthermore, 1no. roof light, flush with the roof plane, with raised cill levels of 1.8m above floor level is proposed on the eastern elevation. Of note is that this roof light is 22m from the rear elevation of the appellant's property.

Of further note is that the ridge height of the revised design is proposed to be maintained at 68.23m, as is the overall height of 6.63m.

In terms of boundary treatments, the existing tree to the east (rear) is to be retained and supplemented with an additional 3no. indigenous broadleaf trees.

It is important to note that there is an extant permission for a single-storey dwelling on the site, under PA Ref. 16/4396, as extended PA Ref. 21/5227 to 9th August, 2026. The height of this permitted dwelling is 6.63m. The height of the proposed dwelling is also 6.63m. The distance of the permitted dwelling from the eastern boundary was 10.3m. The proposed revised dwelling submitted in response to the Request for Further Information was repositioned c. 10.475m from the eastern boundary.

The proposed design of the dwelling as presented in response to the Request for Further Information, is, generally, in keeping with the pattern of existing and permitted dwellings in the vicinity, and, above all, is consistent with the extant

permission and the provisions of the parent permission in terms of the height of the proposed dwelling, and distance from the eastern boundary.

Notwithstanding the appellant's concerns, the proposed single-storey dwelling as configured in response to the Planning Authority's Request for Further Information, in terms of its height and distance from the eastern boundary, is unlikely to result in overshadowing of the property to the east. It is also the case that the design and location of rooflight windows, in particular the one rooflight window proposed on the eastern elevation, means the impact on residential and visual amenity has been mitigated.

In this context, it is recommended that, were it minded to grant permission, the Board should attach the following conditions: that the proposed development complies with the terms of the parent permission PA Reg. 13/5607, ABP Reg. PL04. 242980; that the FFL of the proposed dwelling shall not exceed 61.6m; a condition to the effect that the overall height of the proposed dwelling shall not exceed 6.63m; and that the proposed dwelling shall be no less than 10.475m from the eastern boundary, in the interests of residential amenity. A landscaping scheme, particularly for the eastern boundary, shall also be submitted to the Planning Authority prior to the commencement of development, to minimise any potential for overlooking.

7.3. Appropriate Assessment

Having regard to the nature and scale of the proposed development and proximity to the nearest 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

8.1. I recommend that planning permission be granted for the reasons and considerations set out below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the nature and extent of the proposed development, to the planning history of the proposed development site, including the extant planning permission,

and to the pattern of development in the vicinity, it is considered that, subject to the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of adjoining properties. 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 on 28th June, 2022 as amended by the further plans and particulars submitted on the 26th September, 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>(a) The proposed development shall comply with the terms and conditions of ABP PL04.242980 which governs the overall development of the lands of which the site forms part, save where amended by the terms and conditions herein.</p> <p>(b) The finished floor level of the dwelling permitted herein shall be in accordance with the plans and particulars submitted to the Planning Authority on 28th June, 2022, and as amended on 26th September, 2022, i.e., the finished floor level of the dwelling shall not exceed 61.6m.</p> <p>(c) The overall height of the dwelling permitted herein shall not exceed 6.63m, in accordance with the plans and particulars submitted to the Planning Authority on 28th June, 2022, and as amended on 26th September, 2022.</p>

	<p>(d) the proposed dwelling shall be positioned no less than 10.475m from the eastern boundary.</p> <p>Reason: In the interests of clarity, and in the interests of residential amenity.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof covering shall be slate or flat tile and the colour shall be dark grey or black only.</p> <p>Reason: In the interests of visual amenity.</p>
4.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
5.	<p>(a) All foul sewage and soiled water shall be discharged to the public foul sewer.</p> <p>(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 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.</p>

	Reason: In order to safeguard the residential amenities of property in the vicinity.
7.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
8.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In order to screen the development, in the interest of visual amenity.</p>
9.	<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, 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.</p> <p>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.</p>

Aiden O'Neill

Aiden O'Neill
Planning Inspector

1st May, 2023.