



An
Bord
Pleanála

Inspector's Report

ABP-317276-23

Development	Planning permission for the construction of a 1.5 storey dwelling house with new site entrance and all associated site works
Location	2 Pembroke Court, Pembroke, Pembroke Woods, Passage West, Co Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	234491
Applicant(s)	Donal Desmond
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Donal Desmond
Observer(s)	1) Leon & Denise Tagg 2) Helen & Ken Fahy 3) Pembroke Court Residents
Date of Site Inspection	9 th September 2023
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.3. Natural Heritage Designations	8
5.4. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	9
6.3. Observations	9
6.4. Further Responses.....	10
7.0 Assessment	10
7.2. Principle	10
7.4. Residential & Visual Amenities.....	10
7.5. Traffic Safety	11
7.6. Appropriate Assessment	12
7.7. Other Issues.....	12

8.0 Recommendation..... 13

9.0 Reasons and Considerations..... 13

1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.015 ha is located within an existing low density residential development within the development envelop of Two Mile House and comprises an existing 2 storey dwelling and side garden. The area is characterised by dwellings of similar style and size with single storey dwellings to the rear of the site. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. Planning permission is sought for the construction of a 1.5 storey dwelling house (81.17 sqm) with new site entrance and all associated site works.

2.2. The application was accompanied by the following:

- Planning Architectural Design Statement
- Application for Part V Exemption Cert

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Cork County Council issued a notification of decision to refuse permission for the following 2 no reason:

- 1) *Having regard to the pattern and grain of existing residential development in the immediate vicinity of the site, to the siting and design of the proposed house and in particular its proximity to the single storey properties to the north, it is considered that the proposed development would result in a substandard form of development, which would seriously injure the residential and visual amenities of the area by reason of overbearance/visual obtrusion and overshadowing. The proposed development would depreciate the value of adjoining residential properties and would create an undesirable precedent for development of a similar nature in the vicinity. The proposed development would be contrary to policy objective ZU 18-9*

of the County Development Plan 2022-2028 and would therefore, be contrary to the proper planning and sustainable development of the area.

2) *The proposed development would endanger public safety by reason of traffic hazard because it would involve the making of a further access point on to a road where the traffic movements likely to be generated by the development would interfere with the safety and free flow of traffic on that road. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The **Case Planner** recommended that permission be refused. This Senior Executive Planner agreed with this recommendation. The notification of decision to refuse permission issued by Cork County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Area Engineer** – The proposed development would endanger public safety by reason of traffic hazard because it would involve the making of a further access point on to a road where the traffic movements likely to be generated by the development would interfere with the safety and free flow of traffic on that road.
- **Liaison Officer** – No comment

3.3. **Prescribed Bodies**

- **Irish Water** – No objection

3.4. **Third Party Observations**

3.4.1. There are 7 no observations recorded on the planning file from (1) Miriam Tucholski, (2) Bryan & Katrina Mearns, (3) Helen & Kay Fahy, (4) Tina & Malcolm O'Byrne, (5) Mary O'Byrne, (6) Jim & Cora Carroll and (7) Liam & Eyvonne Cusack.

3.4.2. The issues raised relate to density, precedent, loss of parking space, construction traffic, drainage, loss of sunlight, inadequate site notice, estate not taken in charge, noise pollution, impact to retaining wall and obstruction of views.

4.0 Planning History

4.1. No planning history has been made available with the appeal file. The following is noted from the Case Planners report.

4.2. Appeal Site

- Reg Ref 13/5253 - Tracey Murphy was granted planning permission for extension of duration of 08/9434.
- Reg Ref 08/9434 - Tracy Murphy was granted planning permission for extension to dwelling and additional vehicular entrance.
- Reg Ref 08/6315 - Tracey Murphy was refused planning permission for extension to dwellinghouse.
- Reg Ref 06/8931 - Tracey Murphy was granted planning permission for construction of granny flat extension to dwellinghouse.
- Reg Ref 05/4290 - Donal Desmond withdrew a planning permission for a two store dwellinghouse.

4.3. East

- Reg Ref 17/4386 - Miriam and Claus Tucholski were granted planning permission for construction of a two storey extension to the Eastern elevation of the existing dwelling and new bays to the Southern and Eastern elevations and new attic. 2 No. solar panels, 2 No. dormer windows, new windows to existing dwelling and internal alterations and all associated site works at No. 1.

4.4. South

- Reg Ref 16/6535 - Derek O Byrne was granted planning permission to construct single storey extension to side off existing two storey dwelling and all ancillary site works at No.5.

- Reg Ref 06/9196 - Liam and Yvonne Cusack were granted planning permission for extensions to dwellinghouse and widening of entrance to provide 2 no. car parking spaces at No.7.
- PL 04.214975 (Reg Ref 05/5963) - Dave Hanlon was refused planning permission for a dwellinghouse at No.8 for 2 no reasons relating to (1) visual amenity and (2) off street parking.

5.0 Policy Context

5.1. Development Plan

- 5.2. The operative Development Plan is the **Cork County Development Plan 2022-2028**. The site is zoned “*existing residential / mixed residential and other uses*”. Policy objective ZU 18-9 applies as follows:

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.

Other uses/non-residential uses should protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other uses areas will not be encouraged.

**Note: This is based on Existing Residential/Mixed Residential and Other Uses applying to main towns and to key villages with a population of over 1500 or a population expected to grow over to 1500 in the lifetime of the Plan.*

5.3. Natural Heritage Designations

5.3.1. The site is not located within a designated Natura 2000 site.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the proposed development, 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. The first party appeal against the decision to refuse permission has been prepared and submitted by Farry Town Planning Ltd and may be summarised as follows:

- The development is aimed primarily at providing living accommodation for the applicant's children in due course. At present the rental situation and housing availability situation in the area is chronic.
- A modest 2 bedroom house with 2 no off street car parking spaces and connection to the existing services on the public road is an efficient use of zoned lands and services. The development is a sustainable and efficient use of an infill dwellinghouse opportunity in compliance with Local and National Planning Policies and standards.
- The proposed design of the house is substantially in keeping with the pattern of development on the Pembroke Court which includes a varied mix of dwellinghouses both detached and semi detached with side extensions, dormer first floor extension and window features as well as varying bay window features.
- The shadow cast analysis demonstrates that there was minimal impact on the properties to the rear.
- A surface water drainage drawing was submitted with the planning application. It is proposed to deal with the minimal surface water generated by the proposed

development via the existing mains surface water sewer. The site is not located within any flood areas.

- The proposal for an additional site entrance capable of containing 2 no car parking spaces is almost identical to the site entrance and car parking arrangements permitted previously under Reg Ref 08/9434 and extended under Reg Ref 13/5253. The provision of 2 car parking spaces for a simple 2 bedroom house is considered excessive.
- To address the tangible [and worsening] housing shortage it is considered that proactive and coordinated action needs to be taken to ensure that sites that are indeed suitable for residential development should be supported and that those sites that are serviced and readily available for development should be activated.

6.1.2. The appeal was accompanied by the following:

- Plans, elevations, section, site layout and 3D of previously approved Reg Ref 08/9434 and extended under Reg Ref 13/5253
- Refusal Letter by Cork County Council Reg Ref 23/4491
- Design Statement submitted with the subject application.

6.2. **Planning Authority Response**

6.2.1. All relevant issues have been covered in the technical reports forwarded to the Board. No further comment.

6.3. **Observations**

6.3.1. There are 3 no observations recorded on the appeal file from (1) Leon & Denise Tagg, (2) Helen & Ken Fahy and (3) Pembroke Court Residents.

6.3.2. The issues raised relate to the impact on the retaining wall to the rear of the proposed development, impact on parking and turning in Pembroke Court, housing density, waterlogging and drainage issues, non-compliance with planning laws, impact on obstruction of sunlight to all adjacent properties and overbearance, impact on play area within the cul de sac, inappropriate design and traffic safety.

6.4. Further Responses

6.4.1. None

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings.

- Principle
- Residential & Visual Amenities
- Traffic Safety
- Appropriate Assessment
- Other Issues

7.2. Principle

7.3. Permission is sought for construction of a new 1.5-storey dwelling house with new site entrance to the side garden of the existing dwelling house. The site is located on lands zoned *Existing Residential/ Mixed Residential and Other Uses* where residential development is considered an appropriate use in principle. Accordingly, the principle of the proposed development is considered acceptable subject to compliance with the requirements of the current Development Plan.

7.4. Residential & Visual Amenities

7.4.1. The Planning Authority refused planning in the first instance as the proposal would result in a substandard form of development, which would seriously injure the residential and visual amenities of the area by reason of overbearance/visual obtrusion and overshadowing with particular reference to the single storey properties to the north of the site. It is considered that the proposed development would be contrary to policy objective ZU 18-9.

- 7.4.2. I refer to Policy objective ZU 18-9: Existing Residential/Mixed Residential and Other Uses as set out in full in Section 5.0 above. Brownfield lands and infill sites are an integral part of delivering sustainable growth within the built envelope of our towns and villages. However, they require careful consideration to ensure that they do not have a negative impact on the established residential and visual amenities.
- 7.4.3. In this instance I agree with the Case Planner that separation distances is critical to ensure that the single storey dwellings to the north have an adequate visual buffer (to reduce overbearance) and an adequate physical distance to reduce overshadowing. The houses to the north have short garden lengths and are at a lower level than the dwellings in Pembroke Court. I share the concerns raised that the proposed dwelling is considered too close to the third-party properties to the north and would be injurious to the residential amenity of same. I am further concerned that the remaining private amenity space associated with the main dwelling would be significantly reduced in size and would ultimately offer a poor standard of amenity for that dwelling.
- 7.4.4. The proposal would represent overdevelopment of the site and would negatively impact on the residential and visual amenities of the area and particularly the dwellings to the north. Therefore, it is considered that an infill house at this location would be contrary to the proper planning and sustainable development of the area. Refusal is recommended.

7.5. Traffic Safety

- 7.5.1. Planning permission was refused in the second instance as the proposed development would endanger public safety by reason of traffic hazard because it would involve the making of a further access point on to a road where the traffic movements likely to be generated by the development would interfere with the safety and free flow of traffic on that road.
- 7.5.2. I note the concerns raised by the Case Planner and the Area Engineer in this regard and I accept the comments that as parking would be at a premium at this location and that the proposal to introduce an additional entrance on to a bell mouth would, lead to excessive parking demand on an already small footprint for parking (noted adjacent residences have parking however no visitor parking is available save for the roadway).

7.5.3. While the car parking concerns are symptomatic of the overdevelopment of the site I disagree that the proposed development would endanger public safety by reason of a traffic hazard. Access is proposed onto the turning head at the end of a short residential cul de sac. Given the nature and layout of the cul de sac I do not consider that to permit a vehicular entrance serving a compatible residential use would lead to such a significant increase in traffic generation and associated movements that would merit a refusal. It is therefore recommended that the second reason for refusal is set aside.

7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the proposed development and its distance 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.

7.7. **Other Issues**

7.7.1. **Development Contributions** – I refer to the Cork County Council Development Contributions Scheme. It is recommended that should the Board be minded to grant permission that a Section 48 Development Contribution condition is attached.

7.7.2. **Public Notices** – Concerns raised with regard to the public notices are noted. However, these are not matters for An Bord Pleanála.

7.7.3. **Drainage** – Concerns raised in the observations with regard to water logging and drainage are noted. Given the substantive issues raised above I do not propose to deal with this in any significant depth save to say that I agree with the Area Engineer that any future application at this site (or maybe even other sites in the immediate area) may benefit from a Drainage Impact Assessment which would outline how surface water will be managed on site (both at construction stage and on completion). However the submission of same is a matter for the Local Authority to consider.

8.0 Recommendation

- 8.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the following reason.

9.0 Reasons and Considerations

- 1) Having regard to the pattern and grain of existing residential development in the immediate vicinity of the site, to the siting and design of the proposed house and in particular its proximity to the single storey properties to the rear of the site (north), it is considered that the proposed development would result in a substandard form of development, which would seriously injure the residential and visual amenities of the area by reason of overbearance and visual obtrusion. The proposed development would create an undesirable precedent for development of a similar nature in the vicinity, would be contrary to policy objective ZU 18-9 of the County Development Plan 2022-2028 and would therefore, be contrary to the proper planning and sustainable development of the area.

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.

Mary Crowley

Senior Planning Inspector

10th September 2022