



An
Bord
Pleanála

Inspector's Report

ABP-318324-23

Development	<i>Permission for construction of a new detached storey and half type dwelling in the rear garden of No. 2 Willowbank Crescent</i>		
Location	<i>2 Willowbank Crescent, Broomfield West, Midleton Co. Cork.</i>		
Planning Authority Ref.	<i>235362</i>		
Applicant(s)	<i>Brendan & Mary Rohan</i>		
Type of Application	<i>Permission</i>	PA Decision	<i>Grant Permission</i>
Type of Appeal	<i>Third Party</i>	Appellant	<i>Albert Ryan</i>
Observer(s)	<i>None</i>		
Date of Site Inspection	<i>24/06/2024</i>	Inspector	<i>Andrew Hersey</i>

Context

1. Site Location/ and Description.

The site is located in a suburban housing estate in Midleton, Co. Cork. There is a detached property on site with front and long rear garden. The rear garden has frontage onto a regional road the R626. There is an adjacent properties to the north of the proposed development site which faces onto and gains access from the R626. To the south is the rear garden of 1 Willowbank Crescent which also has frontage onto the R626. Another dwelling is located to the south of the same. No. 1 and No. 2 Willowbank Crescent are the only two properties which have not developed

dwelling in their rear garden and represent a gap on the streetscape along the R626.

2. Description of development.

The proposed development comprises of permission to;

- Construction of a new detached storey and half type dwelling
- New pedestrian and vehicular entrance off the R626
- And all associated site works

3. Planning History.

Adjacent

- Permission granted to the north of the proposed development site for a dwelling under 99/1843 (this is now constructed)
- Permission granted to the south to construct a detached single storey dwelling with attic storage, new site entrance, connection to existing public services and associated site works under 18/6530 (this is now constructed and is located to the south of the rear garden of No. 1 Willowbank Crescent)

4. National/Regional/Local Planning Policy

The Cork County Development Plan 2022- 2028

- The Cork County Development Plan 2022- 2028 is the statutory plan in force at present
- The site is located within the settlement boundary of Midleton in the Cork County Council Development Plan 2022-2028 and is zoned as 'Existing Residential/Mixed Residential and Other Uses'
- Objective ZU18-9 therefore applies which seeks 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. 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.

National Planning Framework 2040

- *National Policy Objective 3 (a) Deliver at least 40% of all new homes nationally within the built up footprint of existing settlements.*
- *National Policy Objective 3 (c) Deliver at least 30% of all new homes that are targeted in settlements other than in the five cities and their suburbs within their existing built up footprint*

5. Natural Heritage Designations

- The nearest designated site is the Cork Harbour SPA (Site Code 004030) which is located 2km to the south of the site

Development, Decision and Grounds of Appeal

6. PA Decision.

Permission was granted subject to 16 Conditions. Conditions of note include:

- Condition 3 - Section 49 Supplementary Development Contribution for the Cobh/Midleton - Blarney Suburban Rail Project
- Condition 5 - Existing Roadside boundary to be retained save where it is proposed to locate vehicular entrance.
- Condition 8 - Site Boundaries to comply with details submitted on the 8th September 2023 (at response to further information)
- Condition 9 - Front Boundary wall/fence shall not exceed 1m in height over adjoining road level
- Condition 14 - Footpath to be dished at vehicular entrance.

7. Internal Reports

- Area Engineer (received 2nd August 2023) – no objection
- Water Services (received 28th July 2023) - no objection subject to connection agreement with Irish Water

8. Prescribed Bodies

- Uisce Eireann (received 26th July 2023) - no objection

9. Submissions

There is one submission on file from an Albert Ryan of 1 Willowbank Crescent

In summary the submission states:

- That the proposed development by reason of its position height and design will overlook his property
- That the proposed house will obstruct his views from the rear of his house
- That the proposed development is commercial in nature
- That the proposed development will devalue his property
- That the proposed development will diminish and block natural light to his property
- That the proposed development will result in the loss of substantial noise and disturbance that would result as a consequence of the use of the property.
- That the proposed development would impact wildlife as a consequence of the removal of trees and vegetation
- That the proposed entrance to the site will result in traffic hazard
- That the proposed development will set an undesirable precedent for other residents to develop houses in their back gardens which would alter the character of the estate
- That the area is prone to flooding
- Loss of security to his property and others
- Adequacy of site notice

10. Grounds of Appeal

A third party appeal was received by Albert Ryan on the 25th October 2023

The appeal in summary states:

- That the proposed development overlooks his property causing a loss of privacy. His rear facing rooms will be overlooked as a consequence of the proposed development. Gable windows will also overlook his garden.
- The proposed development is completely out of character with the area.
- That the proposal will devalue property in the area.
- That the back gardens of Willowbank Crescent were never intended for development.
- That the proposed development is for the purposes of sale and therefore commercial in nature.
- That the neighbours were not informed of the proposed development before the planning application was lodged.
- That the proposal will result in the loss of light to his property
- That the proposed will lead to noise and disturbance to his property on a permanent basis
- That wildlife will be impacted upon by reason of loss of trees and vegetation
- That the proposed entrance to the site will result in traffic hazard
- That the proposed development will set an undesirable precedent for other residents to develop houses in their back gardens which would alter the character of the estate
- That the area is prone to flooding
- That security will be comprised as a consequence of the loss of a high wall which currently exists in the rear garden of the property subject to this proposed development.
- The inadequacy of the site notice

11. First Party Response

A response to the appeal was received on the 22nd November 2023 which is summary states the following;

- With respect to loss of privacy, the first party notes that a gable window on the elevation facing the appellants garden has been omitted in the response to further information as requested by the planning authority.
- That the lands are zoned for development
- That all other houses in Willowbank Crescent have houses at the rear of their premises.
- That the appellant has never lived in his property at No 1 Willowbank Crescent and that he has rented the house since he bought it.
- That there is a house located to the south of his property which faces onto the R626. This is not shown on the aerial photographs that the appellant submitted with the appeal.
- That they, the applicants did consult with neighbours with respect to the proposed development before the application was lodged. They could not get in touch with the appellant whom does not reside at No.1 Willowbank Crescent.
- That they the applicants have consulted with local estate agents whom have advised them that the proposed development would not impact upon property values in the area.
- That no overshadowing will occur to the appellants residence.
- That the proposed house will actually reduce traffic related noise from the adjacent R626
- Only red robin bushes will need to be removed to facilitate the proposed development. These are not protected species.
- Cork County Council were satisfied that sightlines are acceptable at the proposed vehicular entrance.
- That No. 1 and No. 2 Willowbank are the only properties without houses in their rear gardens.
- There will be no extra traffic through Willowbank as a consequence of the proposed development.

- That the proposed development will not appear out of context with the area.
- That a FRA has been submitted after a response to a further information request which in summary states that the proposed floor level of the house is sufficient to minimise the risk of pluvial flood risk to the proposed development
- That the wall along the R626 is only 1.2 metres in height at present. The party wall between No. 1 and No. 2 Willowbank will not be removed and therefore the appellants security will not be compromised.
- The site notice was as per the planners report on file was in place and was legible

12. PA Response

A response from the PA was received on the 21st November 2023 and which states that it is the opinion of the Planning Authority that all the relevant issues have been covered in the technical reports already forwarded to the Board as part of the appeal documentation and has no further comment to make on this matter.

12. Observations

None received.

Environmental Screening

14. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

15. AA Screening

Having regard to the modest nature and scale of development and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant

effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. Introduction

2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.

2.1.2. I am satisfied the substantive issues arising from the grounds of this third party Appeal relate to the following matters-

- Principle of Development
- Residential Amenities/Security/Noise
- Private Open Space
- Visual Amenities
- Traffic Safety
- Flood Risk
- Impact to Wildlife

2.2. Principle of Development/Density

2.2.1. The proposed development is located on lands zoned as '*Existing Residential/Mixed Residential and Other Uses*' in the Cork County Development Plan 2022-2028 where it is the objective of the council under ZU18-9 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. 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.

- 2.2.2. On the basis of the above, it is considered that a residential unit as proposed complies with the above objective.
- 2.2.3. I note from the above objective that *increased densities are encouraged within the settlement network and in particular adjacent to high quality public transport corridors.*
- 2.2.4. I note in this regard that the proposed development is located in a low density suburb of Midleton in Co. Cork and is located within 1km of train station which connects Midleton to Cork City and beyond. The train station is a 14 minute walk or a 4 minute cycle away from the proposed development site. The town centre is a 20 minute walk away.
- 2.2.5. Having regard to the foregoing I am of the opinion that the area where the site is located is appropriate for increased residential densities as per development plan policy and in particular Objective ZU18-9
- 2.2.6. The site forms part of the rear garden of an existing detached house within the suburb and which has a site area of 0.024ha. The density is therefore calculated at 42 units/ha.
- 2.2.7. The *Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities* (Dept Housing Local Government and Heritage 2023) states in Section 3.3, Table 3.3 that in Metropolitan Towns (>1500 population) '*It is a policy and objective of these Guidelines that residential densities in the range 35 dph to 50 dph (net) shall generally be applied at suburban and edge locations of Metropolitan Towns*'
- 2.2.8. The density of the proposed development is therefore appropriate to the area having regard to the above national guidance.

- 2.2.9. Regard must be had to National Planning Policy which seeks that that 40% all new residential development is constructed with the footprint of existing built up footprint of settlements. The proposed development is part of the rear garden of an existing detached house and which has direct frontage onto a public road. Other rear gardens of adjacent properties have similar dwellings in their rear gardens. The proposed development site located at 2 Willowbank Crescent and the adjacent property No. 1 Willowbank Crescent are the only two properties which do not have houses sited in the rear gardens with access onto the adjacent public road, in this case the R626.
- 2.2.10. With respect of the same and having regard to national policy with respect of increasing density in settlements, I am of the opinion the site is appropriate for a residential dwelling as proposed subject to residential standards being met and subject to residential amenities of adjacent properties being protected.
- 2.2.11. With respect of the same, I consider that the construction of dwelling at this location to be acceptable in principle and I do not consider the proposal constitutes overdevelopment.

2.3. Residential Amenities

- 2.3.1. The proposed dwelling is for a dormer dwelling. Windows on the gable of the proposed house facing onto the appellant's property were omitted upon a response to further information. In this respect, there are no first floor windows which overlook the appellants property.
- 2.3.2. I am therefore satisfied that the proposed development will not result in any implications with respect to the reduction of the residential amenities of adjacent property by way of overlooking.
- 2.3.3. With respect to potential overshadowing, I note that the proposed house is located to the north east of appellants property. With respect to this orientation it is considered that no overshadowing will occur to the appellants property as a consequence of the siting of the proposed house.
- 2.3.4. There will be some degree of shadowing on the applicants rear garden as a consequence of the proposal with particular respect to evening sun.

- 2.3.5. Having regard to the foregoing, I consider that the proposed development will not result in significant impact to residential amenities of adjacent properties.
- 2.3.6. I refer to the appellants concerns with respect to noise generation. I consider that any noise generated by the use of the proposed dwelling will not be significant and as such acceptable in this suburban location.
- 2.3.7. I also refer to the appellants concerns with respect to security. I note in this respect that the party boundary between No. 1 and No. 2 Willowbank Crescent is not to be altered and therefore I see no reason as to why security is compromised.

2.4. Private Open Space

- 2.4.1. It is noted from the drawings submitted that the rear garden associated with the proposed development is only 1.943metres deep at the shortest part and 4.048metres at the longest part. The area has not been quantified in any of the first party submissions but the case planner quantifies the same as being 46sq.m.
- 2.4.2. The case planner also refers to a side garden and a much larger front garden 83sq.m. associated with the proposed dwelling.
- 2.4.3. The proposed development will result in a 70sq.m. area of private open space remaining to serve the existing garden associated with No. 2 Willowbank.
- 2.4.4. There are no minimum standards for private open space set out in the Cork County Development Plan 2022-2028.
- 2.4.5. The case planner recommends that there is sufficient space to serve the private open space requirements of the proposed and existing house.
- 2.4.6. I note that a 2.0 metre block concrete wall divides the two properties and their associated rear gardens.
- 2.4.7. While the depth of the rear garden of the proposed development is short, there is a sizable area of private open space to the rear of the dwelling 46sq.m.

2.4.8. On the basis of the above, it is considered that there is sufficient private open space to serve the proposed and existing house.

2.5. Visual Amenities

2.5.1. The proposed dwelling comprises of a dwelling with first floor dormer windows facing east onto the R626.

2.5.2. Material finishes comprise of a nap plaster finish with a timber front door, uPVC windows to a selected color and blue/black concrete roof tiles.

2.5.3. I consider that the design of the proposed dwelling is appropriate to the streetscape facing on to the R626 at this location.

2.6. Traffic Safety

2.6.1. Access to the proposed site is to be via a new vehicular entrance onto the R626. The boundary wall is to be lowered to 1.0 metres to facilitate visibility splays.

2.6.2. I note that the proposed entrance was deemed acceptable by the area engineer as per the report dated 2nd August 2024.

2.6.3. On the basis of the above, I do not consider that any traffic safety issues will arise as a consequence of the proposed development.

2.7. Flood Risk

2.7.1. A Flood Risk Assessment (FRA) was submitted at the response to further information stage. The FRA states in summary that:

- The is located in Flood Zone B and is a 'vulnerable' development with respect to fluvial flooding from the Owenacurra River.
- A justification test was carried out as required under the guidelines.
- The fact that the site is a brownfield development site was considered
- There are no known flood occurrences on the particular site

- A FFL of 3 metres above the known required flood clearance level has been proposed.
- There is little chance of the proposed development causing flooding elsewhere.
- The Owenacurra River is subject to the Midleton Flood Relief Scheme. On completion significant flood relief is expected across the settlement.

2.7.2. On the basis of the above, it is considered that flood risk is acceptable.

2.8. Impact to Wildlife

2.8.1. It is noted that the appellant raises concerns with respect to impact to wildlife as a consequence of the proposed development.

2.8.2. It is noted that the first party response to the appeal states that only shrubs will be removed from the site which they refer to as 'Red Robin' being a typical suburban ornamental shrub. I do not consider that the removal of the same would impact upon wildlife.

3.0 Recommendation

3.1. Having regard to the foregoing I recommend a grant of permission for the following reasons and considerations and subject to the conditions set out below.

4.0 Reasons and Considerations

Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the zoning objective for the site and the policies with respect of residential development as set out in the Cork County Development Plan 2022 – 2028, would not be injurious to the visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

5.0 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 further information received on the 8th September 2023 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>Details with respect to the relocation of utility poles and/or signage that currently exist on the roadside boundary shall be agreed with the Planning Authority prior to the commencement of development. The applicant shall be responsible for the costs associated with the relocation of the same.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The footpath shall be dished at the vehicular site entrance to the site to the satisfaction of the Planning Department</p> <p>Reason: In the interest of proper planning and orderly development.</p>
4.	<p>Surface water drainage arrangements 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>The developer shall ensure that the site is appropriately maintained and that the public road remains free of any dirt and debris during the construction phase of development.</p> <p>Reason: In the interest of proper planning and orderly development.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Monday to Fridays, between 0800 and 1400 hours on Saturday and not at all on Sundays and Public Holidays. Deviation from</p>

	<p>these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: To safeguard the residential amenities of adjoining property in the vicinity</p>
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>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>
9	<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>
10.	<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>

	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.
11.	<p>The developer shall pay to the planning authority a financial contribution in respect of the Cobh/Midleton - Blarney Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>

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.

Andrew Hersey

Planning Inspector

2nd August 2024