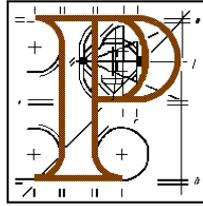


An Bord Pleanála



Inspector's Report

PL28.245844

DEVELOPMENT

New house at Suncroft, Victoria Cross, Cork.

PLANNING APPLICATION

Planning Authority: Cork City Council
Planning Authority Reg. No: 15/36559
Applicant: Joe Power
Application Type: Permission
Planning Authority Decision: To refuse permission

APPEAL

Appellant: Joe Power
Types of Appeal: 1st party v. refusal
Observer: Tony Power, "Carrigdhoun", Victoria Cross, Cork.
Date of Site Inspection: 25th February, 2016.

INSPECTOR: **Brendan Wyse**

1.0 SITE LOCATION AND DESCRIPTION

- 1.1** 'Suncroft' is a development comprising a terrace of 3 no. houses at Victoria Cross, Cork. It was originally a single end of terrace house with a large garden. Two additional houses were added in 2007 on foot of permission P.A. Ref. 05/30346 (see Section 3.0 below). There is a single entrance and common parking area (7 no. spaces) to the front with individual rear/side gardens.
- 1.2** The development is located on the banks of the River Lee immediately adjacent to the O'Neill Crowley Bridge.
- 1.3** The immediate vicinity is mixed residential/commercial. Two storey semi-detached/terraced housing, perhaps dating from the 1940's, extends westwards from the site while the opposite, southern side, of the road has seen substantial redevelopment, including apartment blocks with ground floor commercial, much of it associated with nearby UCC.
- 1.4** The Victoria Cross area is a busy city traffic artery, funnelling traffic to/from the west/south-west of the city.
- 1.5** Maps and photographs are included in the file pouch.

2.0 PROPOSED DEVELOPMENT

- 2.1** The proposed development comprises:
- One additional 3 bed house to be added to the eastern end of the terrace. Design/finishes to match existing.
 - Associated reconfiguration of garden spaces including minor realignment of existing fence to top of river bank. No change to parking area, although application cover letter refers to an additional space.
 - Associated modifications to gable of 'No. 3 Suncroft', including removal of existing kitchen/bedroom bay windows.
- 2.2** It is noted that the site area for the proposed development, outlined in red, is indicated as 0.033 hectares, and that the remainder of the Suncroft development is outlined in blue, indicating that it is within the same ownership.

3.0 PLANNING HISTORY (details in file pouch)

P.A. Ref. 05/30346

This is the 2006 grant of permission for the development as existing at 'Suncroft'.

P.A. Refs. 04/28714 and 02/26718

These are earlier 2004 and 2003 refusals of permission for developments at Suncroft.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and Technical Reports

4.1.1 Planner's Report

Includes:

- Recommendation to refuse permission as per reasons cited in Planning Authority decision (see Section 4.1 below).
- Copy Site Layout Plan associated with P.A. Ref. 05/30346 indicating area of public open space.
- While one of the existing 7 no. car parking spaces at Suncroft appears to be unauthorised (6 no. having been approved under P.A. Ref. 05/30346) there is no issue in relation to parking spaces given the location on a bus route.
- Reference to presence of Japanese Knotweed along the river bank.
- Minutes of pre-planning meeting noted – application not encouraged.

4.1.2 Drainage Division Report

Includes:

- 'de minimis' type approach to appropriate assessment.

- Recommendation for further information/condition re a site specific flood risk assessment (FRA)/ development management justification test in accordance with Box 5.1 DEHLG Guidelines “The Planning System and Flood Risk Management”, given the location of the site within Flood Zone A.
- Recommendation for further information/condition re stormwater discharge to the River Lee, and access rights to foul drain if required.

4.1.3 Irish Water

No objection subject to standard conditions.

4.2 Planning Authority Decision

4.2.1 The decision is to refuse permission for 5 reasons. In summary these refer to:

1. Contrary to Objective 11.7(b) Public Open Space of the Cork City Development Plan 2015-2021 being development on a green area/public amenity area identified as such as part of the Planning Authority Ref. 05/30346.
2. Contrary to Policy 10.9 River and Waterway Corridors in the Cork City Development Plan 2015-2021 being development within 10 metres from the water’s edge.
3. Inadequate private open space.
4. Excessive overshadowing/visually overbearing re. adjoining properties.
5. Contrary to Section 16.46 Residential Development and Section 16.58 Single Units including corner/garden sites in the Cork City Development Plan 2015-2021, being development that would be visually incongruous.

5.0 GROUNDS OF APPEAL

5.1 Main grounds include:

Reason for Refusal No. 1 – Public Open Space

- While identified as public open space under P.A. Ref. 05/30346 the area in question should be deemed as common, incidental open space rather than as public open space as envisaged in the development plan. It has not been taken in charge and is not identified in the development plan as public open space.
- There is no shortage of public open space in the general area.

Reason for Refusal No. 2 – River/Waterway Corridors

- While a portion of the proposed house would be within 10 metres of the water's edge no further encroachment to the existing natural river bank zone is proposed.
- This zone is abruptly interrupted by the O'Neill Crowley Bridge and, across the road, the substantial Victoria Mills development is within 7 metres of the water's edge for a substantial section of its 80 metre north-west elevation (photographs included).

Reason for Refusal No. 3 – Private Open Space

- Both the existing and proposed house will continue to enjoy substantial views of the adjacent bridge and river.
- Two substantial trees at the top of the riverbank provide a substantial visual screen/focus (photograph included).
- Pedestrian views to kitchen/dining area not excessive.
- Screen planting to patio area is proposed (see site layout drawing included).
- It is noted that this drawing indicates that it is no longer proposed to realign the fence to the river bank and this is confirmed in writing in Part 11 of the submission.

Reason for Refusal No. 4 – Overshadowing etc.

- The southern windows to the adjoining house would be retained capturing sunlight from mid-day until early evening.
- Injury to residential amenity would not be material, mindful that this is an infill urban site.

Reason for Refusal No. 5 – Visual Incongruity

- The architectural style proposed closely reflects the adjoining terrace and that of the row of houses immediately to the west.
- The siting of the house simply restores the dominant building line.

Flooding/Drainage

- Drainage Division conditions can be readily addressed.
- While the proposal is for a highly vulnerable use located in a high risk location the proposed floor level has been set above projected flood levels.
- A Development Management Justification Test could be conditioned to be provided prior to commencement of development.

Other

- Note proposed minor alteration substituting upper floor window on northern elevation with a rooflight (providing light to upper floor landing area and not a bathroom as stated).
- Note further comments on Planning Authority Planner's Report and other matters.

6.0 REPSONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority

No further comments.

6.2 Observation

Lodged by Tony Power, 'Carrighoun", Victoria Cross, Cork.

Includes:

- Concerns re presence of Japanese Knotweed at the 'Suncroft' site and possibility of dispersion to observer's property located three doors away.

- Enclosed advice from Iarnród Éireann re preventative measures during construction activities.

7.0 APPLICANT'S RESPONSE TO OBSERVATION

Includes:

The applicant will undertake to arrange for the Japanese Knotweed which lies within the site curtilage, but outside the works area, to be removed fully in accordance with necessary requirements. These may be the subject of a condition.

8.0 POLICY CONTEXT

8.1 Cork City Development Plan 2015-2021

Zoning: Residential, Local Services and Institutional Uses.

Objective: To protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment polices outlined in Chapter 3.

Note: River channel designated as an Area of High Landscape Value and subject to Rivers/Water Bodies Protection. Also Local Centre zoning on opposite side of road.

Copy zoning/objectives map in file pouch.

Chapter 16, Development Management Part C: Residential Development

Parag. 16.46 Residential Design

Includes:

All residential developments should:

- Reflect the existing character of the street with regard to the proposed development, proportion, massing, density and material of surrounding buildings.

- Maintain existing building lines, roof pitches and window proportions.

Parag. 16.58 Single Units including Corner/Garden Sites

Includes:

The Planning Authority will have regard to the following criteria in assessing proposals for the development of single units:

- The existing character of the area/street.
- Compatibility of design and scale with the adjoining dwelling paying particular attention to the established building line, form, heights and materials etc. of adjoining buildings.
- Impact on the residential amenities of adjoining areas.
- Open space standards.
- The provision of adequate car parking facilities and a safe means of access and egress to and from the site.
- The provision of landscaping and boundary treatments.
- Trees and gardens which make a significant contribution to the landscape character of an area are retained and unaffected by the proposal.

Parag. 16.59 Infill Housing

Includes:

To make the most sustainable use of existing urban land, the Planning Authority will consider the appropriate development of infill housing on suitable sites on a case by case basis taking into account their impact on adjoining houses, traffic safety etc. In general, infill housing should comply with all relevant development plan standards for residential development, however, in certain limited circumstances, the Planning Authority may relax the normal planning standards in the interest of developing vacant, derelict and underutilised land. Infill proposals should:

- Not detract from the built character of the area.

- Not adversely affect the neighbouring residential amenities.
- Respect the existing building line, heights, materials and roof profile of surrounding buildings.
- Has an appropriate plot ratio and density for the site.
- Adequate amenity is proposed for the development.

Table 16.6 indicates a requirement for a general provision of 10% of site area as public open space in residential developments. **Parag. 16.62** indicates an allowance for exceptional circumstances as set down in **parags. 16.19 and 16.20**. These paragraphs include:

Exceptional circumstances would include:

- Where developments are close to existing public parks and other amenity facilities.
- Smaller residential and commercial developments where it may not be appropriate to provide public open space.

Exceptional circumstances will be assessed on their merits on a case-by-case basis, and in such instances sufficient private and semi-private open space (or, open space for use by all the occupants of the proposed development) should be provided.

Table 16.7 indicates a minimum private open space standard of 30 – 60 square metres per unit for townhouses/terraced houses depending on location (City Centre, inner-urban, suburban etc.).

Parag. 16.64 indicates that reductions may be considered to facilitate the development of small infill sites in city centre and inner-urban areas. Front garden space is not considered for the purposes of these calculations.

Chapter 11: Recreation Infrastructure

Objective 11.7(b) Public Open Space

Includes:

There will be presumption against development on all open space in residential estates in the city, including any green area/public amenity

area that formed part of an executed planning permission for development and was identified for the purposes of recreation/amenity open space, and also including land which has been habitually used as public open space. Such lands shall be protected for recreation, open space and amenity purposes.

Chapter 12: Environmental Infrastructure and Management

Objective 12.14 Flood Risk Management in Development Proposals

Includes:

Undertaking to implement “The Planning System and Flood Risk Management: Guidelines for Planning Authorities”, 2009 in determining planning applications.

Objective 12.15: Restrictions on Development in Flood Risk Areas

Includes:

To restrict development in identified flood risk areas, in particular, floodplains, except where the applicant satisfies the Justification Test in the above guidelines.

Chapter 10: Landscape and Natural Heritage

Objective 10.9: Rivers and Waterway Corridors:

Includes:

Development proposals in river corridors shall:

- (a) Dedicate a minimum of 10 metres from the water’s edge in channelized rivers for amenity, biodiversity and walkway purposes.
- (b) Preserve the biodiversity value of the site subject to Ecological Assessment by a suitably qualified Ecologist.
- (c) Shall not have a negative effect on the distinctive character and appearance of the waterway corridor and the specific characteristics and landscape elements of the individual site and its context.

9.0 ASSESSMENT

9.1 The main issues in this appeal can be addressed under the following headings:

- P.A. Reason for Refusal No.1 – Public Open Space
- P.A. Reason for Refusal No.2 – River/Waterway Corridors
- P.A. Reason for Refusal No.3 – Private Open Space
- P.A. Reason for Refusal No.4 – Overshadowing etc.
- P.A. Reason for Refusal No.5 – Visual Incongruity
- Flood Risk/Drainage
- Japanese Knotweed
- Appropriate assessment

I am satisfied that no other substantive issues arise.

9.2 P.A. Reason for Refusal No.1 – Public Open space

9.2.1 I concur with the applicants that the area of public open space associated with the ‘Suncroft’ development is in the nature of incidental open space rather than public open space as contemplated in Chapter 11 of the Cork City development plan. This chapter mainly deals with recreational infrastructure across the city at a strategic level. The hierarchy of parks pyramid (Fig. 11.1) indicates that at the local level it addresses local parks (c.2-10 ha.s) and pocket parks (c.0.2-2ha.s), the latter cited as usually provided as part of housing developments and serving a neighbourhood radius of c.200m. The small area of ground in this instance, measuring approx.160 sq.m and entirely contained in a confined corner of the development (see P.A. Ref. 05/30346 Site Layout Plan attached to the P.A. Planner’s Report), clearly could not fulfil this type of function.

9.2.2 Accordingly, I do not consider Objective 11.7(b) to be directly applicable to the subject application. It is also noteworthy that, notwithstanding the identification of the area in question as public open space on the earlier application drawings, it appears not to have been taken in charge. Furthermore, as pointed out by the applicants, it is not identified as public open space in the development plan.

9.2.3 I consider, therefore, that the appeal should succeed in relation to this reason for refusal.

9.3 P.A. Reason for Refusal No. 2 – River/Waterway Corridors

9.3.1 As indicated at section 6.1 above the purpose of Objective 10.9 of the development plan is to preserve a 10 metre strip along channelized rivers for amenity, biodiversity and walkway purposes. The existing ‘Suncroft’ development provides for a strip, to the riverside of the concrete post and timber fencing, of approximately 5 metres. While the application as originally lodged with the planning authority provided for a minor realignment of the fence towards the river it is noted that this is no longer proposed [see section 5.1 (reason for refusal no. 3) above]. The development, therefore, would not give rise to any further encroachment on the area along the riverbank. I do not consider, therefore, that Objective 10.9 is applicable in this instance.

9.3.2 I consider, therefore, that the appeal should succeed in relation to this reason for refusal.

9.4 P.A. Reason for Refusal No. 3 – Private Open Space

9.4.1 As indicated at section 8.1 above minimum development plan standards for private open space (Table 16.7) range from 30 to 48 square metres depending on the location of the development. I would consider the site in question to be ‘inner-urban’ suggesting an area towards the lower end of this range. It is also indicated that reductions may apply to facilitate development of small infill sites in city centre or inner-urban areas and that front garden space is not to be included for calculation purposes.

9.4.2 The concern here relates to both the existing No. 3 Suncroft and to the proposed house to be attached. On the proposed site plan the remaining rear garden area for No. 3 is indicated as 68 square metres and that proposed for the new house is also stated to amount to 68 square metres. The former clearly satisfies the minimum standards. In relation to the latter, while it also satisfies the quantitative standards, the concern here is more focussed on the quality of the space, given its location to the side of the house. I agree, however, with the applicant that these concerns could be readily overcome by, for example, the screen planting to the proposed patio area as indicated in the drawings submitted with the grounds of appeal. I also agree that the aspect to the river and bridge, and existing tree planting along the river edge, confers a distinct quality to the private open space areas.

9.4.3 I consider, therefore, that the appeal should succeed in relation to this reason for refusal.

9.5 P.A. Reason for Refusal No. 4 – Overshadowing etc.

9.5.1 I concur with the applicants that the proposed house would not give rise to excessive overshadowing or visual overbearance relative to the adjoining No. 3. Clearly there would be a loss of the gable end bay windows to a kitchen (ground floor) and bedroom (first floor) but similar front and south facing windows to these rooms would be retained. While the proposed house would project c. 4.7 cm beyond the front façade of No. 3 I consider, given the inner urban location and the layout and character of the development, including the existing relationship to the adjacent property to the west, that the resultant layout would be satisfactory from an amenity perspective.

9.5.2 I note the planning authority Planner's Report reference to the unacceptability of the rear wall of the proposed house forming the party boundary to the adjacent No. 3. While this might be a somewhat unusual arrangement I do not consider it inappropriate given the particular nature of the subject site. The applicant's proposal to substitute the upper level window in the rear elevation with a rooflight is also noted (see section 5.1 above).

9.5.3 I consider, therefore, that the appeal should succeed in relation to this reason for refusal.

9.6 P.A. Reason for Refusal No. 5 – Visual Incongruity

9.6.1 I concur with the applicants that the architectural style proposed closely reflects the adjoining terrace and that of the row of houses immediately to the west. I also agree that the layout/siting also takes account of and restores the dominant building line in the vicinity.

9.6.2 It follows that I do not consider that the development is contrary to paragraphs 16.46 or 16.58 of the development plan (see section 8.1 above). In particular, I note the references in these provisions to the character of the street/area and adjoining/surrounding buildings. As indicated at section 1.0 above Victoria Cross is a busy inner urban hub with a very mixed residential/commercial character, including substantial multi-storey developments on the opposite side of the road to the subject site.

9.6.3 I consider, therefore, that the appeal should succeed in relation to this reason for refusal.

9.7 Flood Risk/Drainage

9.7.1 Though not cited/referred to in the planning authority decision this issue is referred to in the application cover letter, in the report of the planning authority's Drainage Division (see section 4.1.2 above) and it is addressed in the grounds of appeal (see section 5.1 above).

9.7.2 It is acknowledged by the applicants that the site is located within Zone A as per "The Planning System and Flood Risk Management", DOEHLG 2009. Zone A designation applies to areas where there is a high probability of flooding. The guidelines indicate that in such areas most types of development would be considered inappropriate. Only in exceptional circumstances, such as in city/town centres or in the case of essential infrastructure, and where the Justification Test has been applied, should development be considered. Housing is categorised as a highly vulnerably development type. I also note that as per Question 18 of the planning application form the 'Suncroft' site has flooded as recently as November 2009 when the houses flooded to skirting board level.

9.7.3 In relation to development management the guidelines (chapter 5) advise that where a planning authority is considering proposals such as in the instant application it must be satisfied that the development satisfies all of the criteria of the Justification Test (para. 5.15 and Box 5.1). They further advise that where flood risk is an issue the planning authority may consider granting permission subject to conditions to ensure that the Justification Test is satisfied (para. 5.20).

9.7.4 While it is clearly open to the Board to require a Justification Test, in this instance, by way of condition, and which would involve the preparation of a site specific flood risk assessment for the development, I do not recommend such a course of action. I come to this view because the proposed development in this case is within the highly vulnerably category within a Zone A area and because of the evidence of a recent significant flooding event at the site. I consider the preferred approach to be a refusal of permission as the flooding issue in this case is fundamental to the acceptability of the development. Alternatively, the Board could request further information in relation to the matter.

9.7.5 In relation to the general drainage issues referred to in the planning authority's Drainage Division Report I am satisfied, as indicated by the applicants, that these matters can be readily addressed. In this regard I note the proposed foul drainage connection to the existing public sewer and the retention of the entire 'Suncroft' development within the applicant's ownership. I also note the proposal to collect and discharge all surface water via a 100mm drain to the adjacent river and that the construction details of same can be appropriately dealt with by condition. I also concur with the applicants that such a minor intervention into the river bank does not warrant any further ecological assessment as might be inferred from a reference to such in the planning authority Planner's Report.

9.8 Appropriate Assessment

9.8.1 Having regard to the small scale and nature of the proposed development and to the substantial distance to the nearest European Sites (Cork Harbour SDA – Site Code 004030 and great Island channel cSAC – Site Code 001058) 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.

10.0 RECOMMENDATION

10.1 I recommend that permission be refused for the following reasons and considerations.

1. The site of the proposed development is at risk of flooding – it is located within a Zone A area as defined in "The Planning System and Flood Risk Management – Guidelines for Planning Authorities", DOEHLG 2009 and the planning application form indicates that the site flooded in November 2009. As the proposed development is for a highly vulnerable development, it is considered that the development should be subject to a Justification Test, as also provided for in the said guidelines, prior to consideration of planning consent. In the absence of such an assessment it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

**Brendan Wyse,
Assistant Director of Planning.**

March, 2016.

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