



An
Bord
Pleanála

Inspector's Report

ABP-305466-19

Development	Demolition of a shed and construction of a dwelling, new site entrance and all associated site works.
Location	Rear of Manfu House Chinese Take-Away, Ballinlough Road, Ballinlough, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	19/38500
Applicant(s)	Michael Kang Yau Cheung
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	Declan O'Flaherty
Observer(s)	None
Date of Site Inspection	29 th October 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of Ballinlough Road, approx. 2.3 south east of the city centre. The area is suburban in nature with a variety of house styles and types. The site forms part of the rear and side garden of 'Manfu House', a Chinese takeaway. 'Manfu House' is a single storey building which fronts directly onto Ballinlough Road. The site is bound to the north by no. 15. Shrewsbury Downs, a two-storey detached house, to the east by open space associated with the Shrewsbury Downs estate and to the west by a single storey detached bungalow.
- 1.2. The site area is approx. 0.0413 ha. It is currently in use as private open space associated with the existing takeaway. The site boundaries include blockwork walls. Vehicular access to the site is from an existing entrance onto Ballinlough Road.

2.0 Proposed Development

- 2.1. It is proposed to demolish an existing shed with a gross floor area of approx. 25sqm and construction a one and a half storey dwelling with a gross floor area of 166.5sqm. The house is L-shaped with a maximum height of 6.9m. The house is a traditional design with a gable ended pitched roof and dormer style windows at first floor level. The external finish of the house is render with a timber cladding feature at the ground floor level on the front elevation. The house is located in the centre of the site with car parking proposed to the front of the dwelling for 2 no. vehicles.
- 2.2. The works proposed also include the provision of a new 4.7m wide vehicular access onto Ballinlough Road.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 13 no. standard conditions.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The reports by the Area Planner and Senior Executive Planner raised no concerns regarding the propose development and recommended that permission be granted subject to conditions.

3.2.2. **Other Technical Reports**

Environment report: No objection subject to conditions

Drainage report: No objection subject to conditions

Roads Design (Planning) report: No objection subject to conditions

3.3. **Prescribed Bodies**

Irish Water: No objection

3.4. **Third Party Observations**

A third-party submission was received from Declan O'Flaherty of 15 Shrewsbury Downs. The concerns raised are similar to those in the appeal.

4.0 **Planning History**

Reg. Ref. 08/33454: Permission was granted in 2009 to construct a dormer bungalow.

It should be noted that the schedule of conditions for the history file, issued for by the Planning Authority, relate to a different file - reg. ref. 08/33542.

5.0 **Policy Context**

5.1. **Cork City Development Plan, 2015**

The site is located in an area zoned - 'Residential, Local Services and Institutional Uses' with the associated landuse objective *'to protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies*

outlined in Chapter 3. Relevant sections and policies of the plan include the following:

-

- Objective 6.1: Residential Strategic Objectives
- Objective 6.8: Housing Mix
- Objective 6.9: Housing Density
- Objective 16.9: Sustainable Residential Development
- Section 16.58: Single Units Including Corner / Garden Sites
- Section 16.59: Infill Housing

5.2. **National Guidance**

- National Planning Framework
- Quality Housing for Sustainable Communities: Best Practice Guidelines

5.3. **Natural Heritage Designations**

The site is located approx. 500m north west of Cork Harbour SPA (004030).

5.4. **EIA Screening**

Having regard to the nature and small scale of the proposed development and the location of the site, it is concluded that 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**

A third-party appeal was received from Declan O'Flaherty whose property is located to the north of the appeal site. The issues raised are summarised below: -

- The proposed development would have a negative impact on the residential amenities of the adjoining property, in terms of overbearing impact, overlooking and overshadowing.

- The proposed siting and layout and the under provision of open space would result in overdevelopment of a restricted site.
- The house would also be out of character with the established pattern of development and would set an undesirable precedent for residential developments in back gardens.

6.2. Applicant Response

The applicant response is summarised below: -

- The house design and layout was informed by the site characteristics. Its scale and height ensures that it would not negatively impact on the adjoining properties, in this regard there are no first-floor level windows on the northern elevation.
- The proposed design provides a 70sqm rear garden and off-street car parking for 2 no. cars.

6.3. Planning Authority Response

No further comments

7.0 Assessment

7.1. The main issues in this appeal relate to the design approach and residential amenity. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Design Approach
- Residential Amenity
- Appropriate Assessment

7.2. ***Principle of Development***

- 7.2.1. It is proposed to construct a one and a half storey house in the rear and side garden of an existing Chinese takeaway located on Ballinlough Road in the south eastern suburbs of Cork City. Concerns have been raised by the appellant that the proposed development would set an undesirable precedent for the construction of houses in rear gardens. It is noted that permission was granted in 2009, under reg. ref. 08/33454, for the construction of a house on the subject site.
- 7.2.2. The site is zoned - 'Residential, Local Services and Institutional Uses' with the associated landuse objective 'to protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies outlined in Chapter 3'. Section 15.10 states that the provision and protection of residential uses and residential amenity is a central objective of this zoning, which covers much of the land in the suburban area.
- 7.2.3. The existing takeaway 'Manfu House' fronts directly onto Ballinlough Road. The proposed house would be located in the rear garden of the existing building and would have a separate vehicular access. Due to the irregular shape and pattern of development on Ballinlough Road, the front building line of the proposed house is similar to the established building line of houses to the west of the appeal site. Having regard to the characteristics of this site, including the provision of a separate vehicular access onto Ballinlough Road and to the existing pattern of development in the area, it is my view that the proposed development would not set an undesirable precedent for backland development.
- 7.2.4. In conclusion, having regard to the residential zoning objective for the site, the nature and scale of the development and the objectives of the National Planning Framework to increase residential densities in appropriate locations, it is my view that the proposed development is acceptable in principle.

7.3. ***Design Approach***

- 7.3.1. It is proposed to demolish an existing shed with a gross floor area of approx. 25sqm and construction a one and a half storey dwelling with a gross floor area of 166.5sqm. The house is L-shaped with a maximum height of 6.9m. The house is a traditional

design with a gable ended pitched roof and dormer style windows at first floor level. The external finish of the house is render with a timber cladding feature at the ground floor level on the front elevation. The house is located in the centre of the site with car parking proposed to the front of the dwelling for 2 no. vehicles. The internal layout of the house reaches and exceeds the standards set out in Table 5.1 of the Quality Housing for Sustainable Communities: Best Practice Guidelines for a 3-bedroom, 2-storey house.

- 7.3.2. Concerns were raised in the appeal that insufficient private open space has been provided and the proposed development would result in over development of a restricted the site and would have a negative impact on the character of the area.
- 7.3.3. Approx. 70 sqm of rear private open space has been provided. The rear garden is north facing and has a depth of 4.7m. There is an additional area of open space, approx. 30sqm, provided to the front of the house which is south facing. Having regard to the quantity and the quality of open space, it is my view that sufficient open space has been provided on site.
- 7.3.4. Plot ratio and site coverage are indicators of whether or not a site is being overdeveloped. The proposed development has a plot ratio of 0.4 and a site coverage of approx. 21%. Having regard to the distance of the proposed house to the site boundaries, the provision of open space and the relatively low plot ratio and site coverage it is considered that the proposed house would not result in overdevelopment of the site.
- 7.3.5. Concerns were also raised that the proposed development would be out of character with the established pattern of development. Section 16.58: Single Units Including Corner / Garden Sites of the development plan sets out a number of criteria for assessing applications for single houses in garden sites and requires that the scale and design of the house be compatible with adjoining dwellings. The proposed house would be approx. 2.5m higher than the existing takeaway / restaurant unit to the south, approx. 2m higher than the single storey house to the west and approx. 1m lower than the existing 2-storey house to the north. There are a variety of housing styles and sizes on Ballinlough road, including single storey detached bungalows, 2-storey terrace housing and 3-storey duplex units. It is my view, that the proposed dwelling which is

one and a half storeys with a traditional design, would not be out of character with the existing pattern of development.

- 7.3.6. In conclusion, it is my opinion that the design and layout of the house is compatible with the existing suburban character of the area and would not result in overdevelopment of the site.

7.4. ***Residential Amenity***

- 7.4.1. Concerns were raised in the appeal that the proposed development would have a negative impact on the existing residential amenities of adjoining properties, in terms of overlooking, overshadowing and overbearing impact.

- 7.4.2. The house is located in the centre of the site, approx. 5.5m from an existing 2-storey house to the north, approx. 10.5m from an existing single storey takeaway / restaurant unit to the south, approx. 2m from an area of public open space to the east and approx. 8m from an existing single storey house to the west. The proposed house has a gable ended pitched roof with a maximum height of approx. 6.9m. Having regard to the separation distances and the limited height of the proposed development, it is my opinion that the proposed house would not result in undue overshadowing or have an overbearing impact on the adjoining properties.

- 7.4.3. The house has been designed with no first-floor windows on the northern and western elevations and, therefore, would not result in any overlooking of adjoining residential properties. First floor windows are proposed on the southern and eastern elevations. In my view, the provision of a first-floor window on the eastern elevation would improve passive surveillance of the area of open space and would be welcomed. The windows on the southern elevation are located approx. 10.5m from the rear building line of the existing takeaway / restaurant which is also within the ownership of the applicant. Having regard to the commercial nature of the unit the provision of windows at this location would not result in an unacceptable level of overlooking.

- 7.4.4. In conclusion, having regard the suburban character of the area, the pattern of development, and the design and layout of the house, it is considered that the proposed house would not negatively impact on existing residential amenities in terms of overlooking, overshadowing or result in an overbearing impact.

7.5. ***Appropriate Assessment***

Having regard to the nature and scale of the proposed development in a serviced urban area and the distance from 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**

It is recommended that permission be granted subject to conditions.

9.0 **Reasons and Considerations**

Having regard to the zoning objective for the site, the provisions of the Cork City Development Plan, 2015-2021, the existing pattern of development in the area, 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 be acceptable and would not seriously injure the amenities of the area. The proposed development would, therefore be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.

Reason: In the interest of clarity.

2. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or

replacing them, shall not be carried out within the curtilage of the proposed dwelling houses without a prior grant of planning permission.

Reason: In the interest of residential amenity having regard to the restricted nature of the site.

3. The formation of the vehicular access to the shall be constructed in accordance with the requirements of the planning authority.

Reason: In the interest of orderly development and traffic safety

4. The proposed vehicular access shall be no more than 3m in width.

Reason: In the interest of orderly development and visual amenity.

5. Proposals for a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility

6. Site development and building works shall be carried out only between the hours of 0700 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.

Reason: In order to safeguard the residential amenities of property in the vicinity

7. The applicant shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

10. 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.

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

Elaine Power

Planning Inspector

23rd December 2019