



An
Bord
Pleanála

Inspector's Report ABP 306539-20

Development	Construction of a detached dwelling and associated site works
Location	Glencaragh , College Road, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	19/38647
Applicant(s)	Peter McSwiney
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Richard Kenefick
Observer(s)	None
Date of Site Inspection	14 th March 2020
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1.1. The appeal site, with a stated area of 0.0403ha. comprises a vacant site. The site is located on the south eastern side of College Road in the Western Suburbs of Cork City. Access to the site is from College Road.
- 1.2. The site is bound to the northwest by an vacant site beyond which there is a single storey gable fronted dwelling also accessing onto College Road. To the immediate southwest of the site there is a two-storey gable fronted dwelling. The rear boundary of the site abuts a detached dwelling known as “Arden” set on a large landscaped site. There are a number of mature trees along the boundary between the site and this property.
- 1.3. The general area reflects a mix of use including, residential, educational and medical. University College Cork and the Bon Secours Hospital are located to the northwest of the site. Residential development in the area reflects a mix of architectural styles.

2.0 Proposed Development

- 2.1. The development will comprise :
- 2.2. The construction of a detached dwelling (change of house type as granted under 08/33601) and associated site works.
- 2.3. The design of the dwelling was revised following a request for further information whereby the scale and bulk of the dwelling was reduced. The proposed dwelling is a two-storey with third floor attic accommodation, four-bedroom, detached house of 259.39sqm, with pitched roof. Provision is made for a car parking space to serve the proposed dwelling to the front of the site. Ancillary site landscaping and boundary works are proposed. It is proposed to connect to the existing public watermain and foul sewer. Surface water is to be discharged to the public system.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant planning permission subject to 11 conditions. The following are considered of relevance:

- Condition no.2 refers to finishes

- Condition no. 3 refers to landscaping
- Condition no. 5 refers to drainage arrangements
- Condition no. 11. Refers to development contributions

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

Initial Planning Officer's report recommended refusal noting the height, scale and contextual relationship to the adjoining properties. Further information was requested for a revised design following a recommendation from the Senior Executive Planner noting the planning history on the site. Following receipt of revised drawings, the final planners report dated 18th December 2019 recommended a grant of planning permission subject to conditions.

3.2.2. **Other Technical Reports:**

Roads Department – No objection subject to conditions

Drainage Department - No objection subject to conditions

Environment Department - No objection subject to conditions

3.3. **Prescribed Bodies**

Irish Water – Report dated 8th October 2019 raised no objection

3.3.1. **Third Party Observations:**

A total of two submissions were made in relation to the development. A brief summary of the issues raised in the submission to the Planning Authority are set out below:

- Scale and height of the new dwelling is inappropriate and inconsistent with previous planning history.
- Out of character in the area
- Overbearing
- Overlooking and impact on privacy
- Proximity to Architectural Conservation Area bordering the site
- The development will set an unacceptable precedent

- Contrary to Section 16.59 Infill Housing of the Development Plan

4.0 Planning History

4.1. Site

CCC 08/33601 /ABP PL.28.234275 - Permission granted in 2010 for a two-storey dwelling

CCC 07/32148 / ABP PL. 28.227221 – Permission refused in 2008 for the demolition of existing house and the construction of two houses and ancillary works citing the design and proportion of the houses and the incongruous and over-dominant appearance between the existing bungalow to the north-east and the new development...

5.0 Policy Context

5.1. Development Plan

The Cork City Development Plan 2015 - 2021 is the relevant statutory Plan.

5.1.1. The site is zoned ZO 4 *Residential, Local Services and Institutional Uses* with the policy: 'to protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies outlined in Chapter 3.

5.1.2. The following sections of the City Plan are of relevance to this appeal:

Chapter 16 Standards for residential development

Section 16.12 Density

Section 16.41 Residential density

Section 16.46 Residential Design

Section 16.49 Residential Developments

Section 16.58 Policy on single units including corner / garden sites

Section 16.59 Infill Housing

Section 16.73 Residential Entrances / Parking in Front Gardens

5.2. National Policy and Guidelines

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009)

Section 5.9 (ii) Sub-division of dwellings - Many inner suburbs contain large houses on relatively extensive sites whose conversion to multiple dwellings without a dramatic alteration in the public character of the area is achievable. In such areas, particularly those of falling population but which are well served by public transport, their conversion to multiple occupancy should be promoted subject to safeguards regarding internal space standards, private open space and maintenance of the public character of the area. Standards of off-street car parking might be relaxed to encourage the occupation of the dwellings by households owning fewer cars. Special care will be required to protect the integrity of protected buildings

- Quality Housing for Sustainable Communities, Best Practice Guidelines (2007).

5.3. Natural Heritage Designations

The site is located approx. 4.1km northwest of Special Protection Areas: Cork Harbour SPA (Site Code: 004030).

5.4. EIA Screening

Having regard to the nature and scale of the proposed development, the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1.1. Third Party Grounds of Appeal

The third-party appeal was made by Richard Kenefick, Arden, Collage Road, Cork, Arden is located to the southeast of the appeal site and shares a boundary with the appeal site. The principal grounds of appeal can be summarised as follows:

- The appeal submission sets out the rationale for the previous planning CCC 08/33601 (ABP PL.28.234275) on the site and the design considerations. It is

argued that the current application is inconsistent with the scale of the permitted development under CCC 08/33601 (ABP PL.28.234275) .

- It is set out that there is a discrepancy in the planner's report in terms of the previous planning application and the current proposal.
- It is set out that permitting development of this scale and height will set a precedent and will have a detrimental effect on adjoining property, in particular, the single storey dwelling to the north "Cooladeera".
- It is set out that the windows at second floor (attic level) increase overlooking of his property.
- It is set out that the development does not take account of the location of the appellants site within the Architectural Conservation Area of University College Cork with regards to appropriate design and the impact on the appellants c. 1906 Arts and Crafts dwelling.

6.2. Applicant Response

- Noting the appellants concern regarding the rear second floor window, it is set out that the window is more than 34m from the appellants sunroom at an oblique angle and given the relative elevation of the development to the appellants property it is in effect a first floor window screened by dense vegetation.

6.3. Planning Authority Response

Response received, no further comments to make.

7.0 Assessment

7.1. Introduction

7.1.1. The assessment covers the points made in the appeal submissions, the main issues in the assessment of the proposed development are as follows:

- Principle of Development
- Impact on the Character of the Area and Residential Amenity
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The site is zoned ZO 4 *Residential, Local Services and Institutional Uses* with the Cork City Development Plan where the policy is ‘to protect and provide for residential uses, local services, institutional uses and civic uses’. Residential is a permissible use within this zoning category.
- 7.2.2. The applicant argues that the development will set an unacceptable precedent and argued that the current application is inconsistent with the scale of the permitted development under CCC 08/33601 (ABP PL.28.234275). Whilst, I note the appellants concerns the current application will be assessed on its own merits in accordance with the current Cork City Development Plan 2015-2021 and relevant national policy and guidelines.
- 7.2.3. The design of the dwelling has been revised following a request for further information by Cork City Council. Impacts upon amenity of the area and residential amenity are considered in greater detail in the succeeding section of this report. However, it is considered that in principle the proposed dwelling accords with recent Government policy for densification within cities on appropriate sites, in proximity to public transport network, which is considered critical to support sustainable growth. Regard is had to Urban Development and Building Height, Guidelines for Planning Authorities’ (Dec 2018). It is pertinent to refer to section 2.14 of the Guidelines which state that ‘in the interests of achieving national policy objectives for significantly increased urban housing delivery, there is a need for planning policy to ensure that an appropriate quantum of residential developments is included as part of significant development proposals for individual sites and urban neighbourhoods’. I note also The National Planning Framework (NPF) and Regional Spatial and Economic Strategy (RSES) which support compact growth, densification and consolidation. Densification is appropriate on this site.

7.3. **Impact on the Character of the Area and Residential Amenity**

- 7.3.1. The appellant has expressed concern that the design approach will result in loss of amenity for his property and adversely affect the character of the area and set an unacceptable precedent.
- 7.3.2. Site inspection indicated that the general character of the area has been altered over time with amendments and additions to existing houses and the insertion of other infill dwellings. In my opinion the **design** of the proposed dwelling reflects the

general character of the area in terms of scale and mass, front building line and height. The general area reflects a mix of architectural styles and building types. I consider the principle of the development is in line with Section 16.58 of the Development Plan

- 7.3.3. In relation to the appellants concern regarding the impact of the development on the adjoining Architectural Conservation Area of University College Cork within which the appellants site sits, I note the appeal site is located outside of the ACA and the proposed development is significantly screened from the appellants site by virtue of the mature screening separating the two sites. I further note that the development will not reduce the significant site area surrounding the appellants site. I am satisfied that the proposed development in this tight urban context will not impact negatively on the established character of the area and setting of the appellants property.
- 7.3.4. The appellants grounds of appeal assert that the design approach will result in overlooking of his property, in particular, from the second-floor rear attic accommodation window. In response the first party states that the window is more than 34m from the appellants sunroom at an oblique angle and given the relative elevation of the development to the appellants property it is in effect a first-floor window screened by dense vegetation. In this regard, I note the urban site context and the existence of rear first floor and second floor windows as an established norm in the general area. I consider the rear windows acceptable subject to compliance with standard separation distances.
- 7.3.5. The 'Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities' and its accompanying 'Urban Design Manual' does not set rigid minimum separation distances but does require that habitable rooms and private amenity space should not be directly excessively overlooked by neighbouring residents. Section 11.3.1 (d) *Overlooking* of the Development Plan sets out that residential units shall not directly overlook private open space from above ground floor level by less than 11 metres minimum. In the case of developments exceeding 2 storeys in height a greater distance than 11 metres may be required, depending on the specific site characteristics. I note the separation distance between the rear second floor attic window and the appellants property is approx. 32m. It is generally acknowledged that a 22m separation distance between opposing first floor windows is acceptable. In this instance the separation distance of 32m will be adhered to and I am satisfied

that in a urban context the proposed second floor attic (playroom) accommodation window is acceptable.

Conclusion

- 7.3.6. The site comprises a generous rear garden within the existing built up area. The dwelling has been site specifically designed to fit into its setting and respects the character of the existing area. Cognisance being had to the nature of the site and surrounding existing development, it is considered that the dwelling would not have a negative impact upon existing residential amenity or visual amenity of the area, given its design, massing, scale, height and proposed finishes.
- 7.3.7. I am satisfied that the **design and layout** of the development will not detract from the character of the area and is in accordance with the proper planning and sustainable development of the area.

7.4. **Appropriate Assessment**

Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any 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**

I recommend that planning permission should be Granted to the proposed development subject to conditions set out below.

9.0 **Reasons and Considerations**

Having regard to the land-use zoning of the site, the existing pattern of development on the site and in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not give rise to a traffic hazard, be injurious to visual amenity of the area or injure residential amenity of property in the vicinity. 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 on 2nd December 2019, 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details, including samples, of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. dwelling shall be used as a single dwelling unit only.

Reason: To ensure that the development will not be out of character with the existing residential development in the area.

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

Reason: In the interest of public health

5. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health

6. The number of the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

7. Site development and building works shall be carried out only between the hours of 0800 to 1800 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: To protect the residential amenities of property in the vicinity of the site.

8. 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.

Irené McCormack
Planning Inspector

15th March 2020