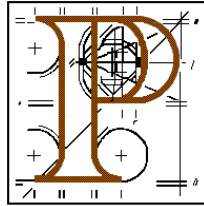


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# An Bord Pleanála



## Inspector's Report

**Appeal Reference No.:** PL28.246406

**Development:** Modifications to existing planning permission 14/36068 to consist of a detached 3 bedroom 2-storey house, 2 new car parking spaces, landscaping and ancillary site works.

5 Greenbanks, Well Road, Douglas, Cork.

### **PLANNING APPLICATION**

**Planning Authority:** Cork City Council

**Planning Authority Ref.:** 16/36730

**Applicant:** Into the Future Ltd.

**Type of Application:** Permission

**Planning Authority Decision:** Grant subject to conditions

### **APPEAL**

**Type of Appeal:** Third Party v. Decision

**Appellant:** Margo Larmour

**Observers:** None.

**INSPECTOR:** Robert Speer

**Date of Site Inspection:** 21<sup>st</sup> July, 2016

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## **1.0 SITE LOCATION AND DESCRIPTION**

1.1 The proposed development site is located in an established residential area, approximately 2.8km southeast of Cork City Centre, to the immediate west of Mahon Golf Course where it overlooks the Douglas Estuary to the south / southeast. The surrounding area is predominantly residential, with the notable exception of Mahon Golf Club to the east, and is characterised by a variety of housing which includes more conventional suburban estates to the north and west in addition to individual properties which have developed in a linear format along the roadside. The site itself has a stated site area of 0.1874 hectares, is irregularly shaped and presently forms the southernmost part of a larger infill plot of land where works are on-going as regards the construction of a series of 4 No. detached two-storey dwelling houses. Notably, whilst the prevailing topography of the surrounding area falls towards the estuary to the south / southeast, the ground level of the application site has been raised in part through the deposition of excavated material / spoil associated with the construction works on the adjacent lands to the immediate north / northwest. The lands to the west of the site are occupied by a single storey bungalow (the appellant's dwelling house) whilst the golf course is to the east and the estuary is to the south.

## **2.0 DESCRIPTION OF PROPOSED DEVELOPMENT**

2.1 The proposed development is described in the application documentation as comprising '*Modifications to existing planning permission 14/36068*', however, it effectively amounts to a change of house type from that previously approved on site pursuant to the grant of permission issued in respect of PA Ref. No. 14/36068. In this regard, the proposed house type is of a contemporary design with a stated floor area of 381m<sup>2</sup> and a ridge height of 7m. It is of a two-storey construction and utilises a combination of flat and mono-pitched roof types with a series of 3 No. tall chimney stacks extending over same. External finishes will include yellow stock brickwork with lime mortar joints, selected stonework, zinc roofing, double glazed steel windows and timber joinery.

## **3.0 RELEVANT PLANNING HISTORY**

### **3.1 On Site:**

PA Ref. No. 01/25602. Was granted on 9<sup>th</sup> January, 2002 permitting Donal Gallagher permission for the demolition of a derelict dormer bungalow over basement.

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PA Ref. No. 06/31225. Application by Finbarr Tierney for permission for the demolition of an existing dwelling house and the construction of 10 no. Town Houses with ancillary landscaped private and public open space areas; parking for 20 no. vehicles; internal access road, refuse store, modifications to ground levels; new access from the Well Road; all associated site development works and revisions to services and infrastructure. This application was withdrawn.

PA Ref. No. 07/32146 / ABP Ref. No. PL28.226980. Was granted on appeal on 23<sup>rd</sup> June, 2008 permitting John Cotter permission for the demolition of an existing two-storey dwelling house and outbuilding and the construction of 4 No. dwelling houses and associated site works.

PA Ref. No. 14/36068. Was granted on 19<sup>th</sup> November, 2014 permitting Into the Future Limited permission to construct 5 No. detached houses and to carry out associated site works.

#### **4.0 PLANNING AUTHORITY DECISION**

##### **4.1 Decision:**

On 14<sup>th</sup> March, 2016 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 4 No. conditions which can be summarised as follows:

- Condition No. 1 – States that with the exception of those departures authorised by the grant of permission, the development is to be carried out in accordance with the terms and conditions of the grant of permission issued in respect of PA Ref. No. 14/36068.
- Condition No. 2 – Requires the dwelling house to be used solely as a single residential unit.
- Condition No. 3 – Refers to external finishes.
- Condition No. 4 – Refers to payment of a development contribution in the amount of €20,619.57.

##### **4.2 Objections / Observations:**

A total of 9 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- Loss of residential amenity & privacy
- Inappropriate design, scale, height, finishes and architectural style

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- Detrimental impact on the Landscape Protection Zone / visual intrusiveness
  - Negative impact on the Douglas Estuary and its wildlife etc.
  - Undesirable precedent for similar development
  - Encroachment of / interference with the boundary of an adjoining property
  - Inadequate car parking provision
  - Misleading / incorrect description of the proposed development
  - Inaccuracies in the application documentation.

#### **4.3 Internal Reports:**

*Environment, Waste Management & Control:* No objection subject to conditions.

*Drainage Division:* No objection subject to conditions.

#### **4.4 Prescribed Bodies / Other Consultees:**

*Irish Water:* No objection subject to conditions.

### **5.0 GROUNDS OF APPEAL**

The grounds of appeal are summarised as follows:

- The overall scale and height of the proposed two-storey dwelling house is considered to be excessive given its siting on lands which rise almost 3m above the height of the appellant's adjacent single storey property to the southwest. Accordingly, the proposed development will have a detrimental impact on the residential amenity of the appellant's dwelling house by reason of overlooking with a consequential loss of privacy.
- The height of the 3 No. chimney stacks is excessive and results in an incongruous appearance.
- The extent of glazing at ground floor level within the western elevation of the proposed dwelling house will result in overlooking of the appellant's property with a consequential loss of privacy.
- The overbearing nature of the proposed construction, with particular reference to its western end, will have a negative impact on the amenity of the appellant's neighbouring dwelling house.
- Due to the increase in the overall footprint of the construction, the proposed dwelling house will be too close to the appellant's property boundary.

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- The overall scale, height and massing of the proposed dwelling house is such that it will have a significant negative impact on the residential amenity and value of the appellant's property.
  - The proposed dwelling house will be visually intrusive, the impact of which will be aggravated by the difference in ground level between it and surrounding properties.
  - In its assessment of a previous planning application lodged on site under PA Ref. No. 07/32146, the Planning Authority's main concern was that the dwelling house proposed on site *'could have a detrimental impact on the amenities of the occupiers of adjoining properties'* and thus it recommended *'a more sympathetic scale, possibly a single-storey or sensitively-designed dormer dwelling'*. Subsequently, in its consideration of PA Ref. No. 14/36068 the Planning Authority issued a request for further information wherein the applicant was advised that *'the proposed scheme should be redesigned to relocate this dwelling further away from the western boundary to prevent excessive overlooking of the existing single storey 'Byways' to the west'*. Notably, the applicant complied with the aforementioned request and thus permission was granted for a single storey dwelling house with no living accommodation in the attic on Site No. 5 in the interests of protecting the residential amenity of the adjacent property (i.e. 'Byways').

Having regard to the foregoing, it is submitted that the Planning Authority has deviated from its position as held in 2014 when it approved a single storey dwelling house with no living accommodation in the attic space, to a scenario whereby it has now authorised a two-storey dwelling with a balcony. Such an approach would appear to be inconsistent and does not constitute good planning practice.

- The proposed dwelling house is located on a backlands site and is within a Landscape Protection Zone.
- In its assessment of PA Ref. No. 14/36068 the Planning Authority stepped all the proposed houses down towards the water with the largest and highest dwelling located at the end of the site with Well Road. The proposed development is almost twice the height and size of the dwelling house already permitted on site pursuant to PA Ref. No. 14/36068 and is much larger than that at the end of the site with Well Road. The site in question should accommodate the smallest (not the largest) dwelling house within the wider scheme so as to continue the tiered approach

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- towards the water as was previously required by the Planning Authority in 2014.
- Contextual drawings indicating the proposed development relative to the appellant's dwelling house should have been requested in order to properly assess the impact on that property.
  - The overall design of the development, with particular to the roof construction, would have a detrimental impact on the wider character and appearance of this area of outstanding natural beauty with its protected views over the Douglas Estuary.
  - The proposed development should be single storey and utilise a conventional pitched roof in keeping with the surrounding pattern of development.
  - The proposed development is contrary to the objective of the Planning Authority which seeks to preserve prime city views. Policy BE21 of the City Development Plan states that development should respond to the locally distinctive character of a site. Proposals that would cause unacceptable harm to the character and appearance of an area are not to be permitted. In this respect it is submitted that the subject proposal will cause unacceptable harm to the character and appearance of a backlands area in Douglas Estuary.
  - The subject proposal will set an undesirable precedent for the similar development of backlands along Well Road which overlook the Douglas Estuary.
  - The description of the proposed development as a '*modification to existing planning permission*' is not applicable in this instance. The subject application is for an entirely different dwelling house of such proportions and prominence that it is in total contrast to that previously permitted in 2014 (PA Ref. No. 14/36068).

## **6.0 RESPONSE TO GROUNDS OF APPEAL**

### **6.1 Response of the Planning Authority:**

None.

### **6.2 Response of the Applicant:**

- Section 'B-B' as detailed on Drg. No. A-PA103 shows that the level difference between the proposed dwelling house (Finished Floor Level: 7.7m) and the adjoining single storey dwelling to the west (Finished Floor Level: 6.6m) equates to the submitted proposal being 1.1m higher. Notably, the Planning Report states that '*It is not considered that it (the*

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*proposed dwelling) would have a detrimental impact on the residential amenity of the adjoining property’.*

- The proposed development includes for the provision of 3 No. chimneys. Two of these chimneys are located on the eastern side of the dwelling and are positioned 26.3m and 34.5m to the closest point of the adjacent dwelling house of the same height and thus will have no impact on same. The third (and smallest) chimney is located 10.6m from the closest point of the adjacent dwelling house and is 2.1m lower than the other two stacks. The height of this stack has been determined by the height of surrounding properties and the physical draw on the fireplace at ground floor. Any lower than the height proposed would result in the chimney stack not functioning correctly.
- It is accepted that the smallest chimney stack would be partially visible from the ground floor of the appellant’s residence, although it would be concealed by the extensive hedgerow and tree line along the intervening boundary. The other two chimneys are too far away to have any visual impact.
- The proposed development has been sensitively designed so as to ensure that there is no loss of privacy or visually overbearing impact to the adjoining property:
  - The ground floor of the proposed dwelling house will be set back between 4.1m and 5.1m from the site boundary.
  - It is proposed to protect the residential amenity of adjoining property through the provision of landscaping and the construction of a 2m high boundary wall between the subject site and the appellant’s property (as previously permitted under PA Ref. No. 14/36068).
  - The combination of the setback and the difference in ground levels will ensure that the ground floor windows of the proposed dwelling are not visible from the neighbouring property.
  - At first floor level the only window facing the boundary is located 12.4m away and serves a bathroom. This window is fixed and will also be fitted with obscure glazing so as to avoid any issues of overlooking.
- The windows within the elevation of the appellant’s dwelling house facing the site boundary are all angled towards the southeast i.e. away from the proposed building.

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- At first floor level, the narrow gable end of the proposed dwelling house is located 12.4m from the closest point of the appellant's residence and is also set back from the ground floor thereby ensuring that it does not have any detrimental impact on the residential amenity of the adjoining property.
  - The combination of the careful massing, the setback from the western site boundary, the available screening, and the difference in ground levels, all serve to ensure that the visual impact of the first floor of the proposed development is minimal.
  - A 5.1m wide landscaping zone (as previously permitted under PA Ref. No. 14/36068) is proposed between the boundary wall and the ground floor of the dwelling house. This proposed planting will provide a visual screen on the higher ground between the two sites.
  - Whilst the footprint of the proposed development is greater than that previously approved, the site coverage is very low at 16%.
  - The extent of private open space proposed is in excess of 20 times the prescribed minimum set out in the City Development Plan.
  - The proposed dwelling has been carefully considered so as to be of a higher standard of design and not to have a detrimental impact on the character of the surrounding landscape, loss of privacy, overshadowing or visual overbearing of the adjoining dwelling to the west.
  - Several of the issues raised concern matters that are outside of the subject application for modifications to the grant of permission issued in respect of PA Ref. No. 14/36068.
  - With regard to the site location in a backlands area in the Douglas Estuary and the appellant's reference to the requirement of the Planning Authority in 2014 that the proposed dwelling house, being nearest to the water, should be stepped down in height from Well Road due to its location within the Landscape Protection Zone, although the height of the proposed house is 1.75m higher than the previously permitted bungalow with its pitched roof on Site No. 5 as approved under PA Ref. No. 14/36038, it can be seen from Drg. No. A-PA103 that the building steps down 3.8m when compared to the ridge height of the adjoining house (No. 4) to the rear.

The Planning Report also states that:

*'while it would not be particularly visible from Well Road, considering the level difference and the height of the adjoining permitted two-storey dwellings, it responds well to its setting adjacent to the estuary and would provide visual interest when viewed from the estuary side'.*



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- The main floor area of the proposed dwelling house is at ground floor level and occupies that part of the site which is not within the landscape preservation zone, facing south onto the estuary, with the bedrooms located on the upper floor and their windows also facing south. The second storey is 8.1m away from the western site boundary and presents its narrow gable end westwards in acknowledgement of the appellant's dwelling house.
  - The massing of the proposed two-storey, flat-roofed building is considered to result in a dwelling house with good daylight / sunlight and allows for adequate space for lighting and planting around it.
  - There is no consistent style or palette of materials in the surrounding housing.
  - The proposed development is contemporary in style and its external finishes have been selected to enhance the local area / natural landscape.
  - With regard to the 4 No. suburban dwelling houses being built on those lands to the north of the application site, the applicant concurs with the Planning Report which states the following:

*'It is considered that the proposed dwelling is of a higher standard of design than the dwelling previously permitted on the site and the other dwellings permitted to the north and would not have a detrimental impact on the character of the landscape'.*

- The principle of a dwelling house has already been established on site under PA Ref. No. 14/36068 and the subject application relates solely to a change of house type. Other issues such as drainage, construction methodology and landscaping were all assessed under the governing permission (i.e. PA Ref. No. 14/36068). It was also agreed with the Planning Authority that the phrase *'modification to existing planning permission'* be inserted in the application.

## **7.0 NATIONAL AND REGIONAL POLICY**

7.1 The *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* note that in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such

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developments can be provided either by infill or by sub-division. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

## **8.0 DEVELOPMENT PLAN**

### **Cork City Development Plan, 2015-2021:-**

#### **Land Use Zoning:**

The north-western portion of the proposed development site is located in an area zoned as *'Residential, Local Services and Institutional Uses'* with the stated land use zoning objective *'To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3'*. However, the majority of the site is zoned as *'Landscape Preservation Zone'* with the stated land use zoning objective *'To preserve and enhance the special landscape and visual character of landscape preservation zones. There will be a presumption against development within these zones, with development only open for consideration where it achieves the specific objectives set out in Chapter 10, Table 10.2'*.

#### ***Explanatory Note: 'Residential, Local Services and Institutional Uses':***

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. However other uses, including small scale local services, institutional uses and civic uses and provision of public infrastructure and utilities are permitted, provided they do not detract from residential amenity and do not conflict with the employment use policies in Chapter 3 and related zoning objectives. Small scale 'corner shops' and other local services such as local medical services, will be open for consideration. Schools, third level education institutes, and major established health facilities are located within this zone and appropriate expansion of these facilities will be acceptable in principle. The employment policies in Chapter 3 designate particular locations for offices, office based industry, major retailing development and these uses are not generally permitted in this zone (Chapter 3: Enterprise and Employment). New local and neighbourhood centres or expansion of same are open for consideration in this zone provided they meet the criteria for such centres set out in Chapter 4.

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*Explanatory Note: 'Landscape Preservation Zone':*

These areas have been identified due to their sensitive landscape character and are deemed to be in need of special protection due to their special amenity value, which derives from their distinct topography, tree cover, setting to historic structure or other landscape character. Many of these sites have limited or no development potential due to their landscape character and development will be limited in scope and character to the specific objectives for each site set out in Chapter 10.

*Other Relevant Sections / Policies:*

*Chapter 6: Residential Strategy:*

*Objective 6.1: Residential Strategic Objectives:*

- a) To encourage the development of sustainable residential neighbourhoods;
- b) To provide a variety of sites for housing to meet the various needs of different sections of the population;
- c) To continue to work with the Approved Housing Bodies and to actively engage with all key stakeholders in the provision of housing;
- d) To continue to regenerate and maintain existing housing;
- e) To encourage the use of derelict or underused land and buildings to assist in their regeneration;
- f) To promote high standards of design, energy efficiency, estate layout and landscaping in all new housing developments;
- g) To protect and, where necessary, enhance the amenities and the environment of existing residential areas.

*Chapter 10: Landscape and Natural Heritage:*

*Objective 10.1: Landscape Strategic Objectives:*

To preserve and enhance Cork's landscape character and key landscape assets.

To preserve and enhance Cork's views and prospects of special amenity value.

*Objective 10.2: Cork City Landscape:*

To preserve Cork's unique and distinctive landscape character through the appropriate management and

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enhancement of Key Landscape Assets, (as set out in Table 10.1).

*Objective 10.5: Landscape Preservation Zones:*

To preserve and enhance the character and visual amenity of Landscape Preservation Zones through the control of development. Development will be considered only where it safeguards to the value and sensitivity of the particular landscape and achieves the respective site specific objectives, as set out in Table 10.2.

*N.B.* The proposed development site is located within the Landscape Protection Zone ‘SE2: Douglas Estuary’ where the following landscape assets are required to be protected:

- ‘B’: Water / River Corridors - rivers, estuary, harbour, The Lough, Atlantic Pond, Docklands, Port of Cork.
- ‘D’: Ecology - areas which provide a habitat for wild flora and fauna.
- ‘E’: Visually Important Land (including Views and Prospects of Special Amenity Value, Potential Vantage Points and Locally Important Views).
- ‘H’: Public and Private Open Space footprint, including land with potential for Public Open Space.

*Objective 10.6: Views and Prospects:*

To protect and enhance views and prospects of special amenity value or special interest and contribute to the character of the City’s landscape from inappropriate development, in particular those listed in the development plan. There will be a presumption against development that would harm, obstruct or compromise the quality or setting of linear views of landmark buildings, panoramic views, rivers prospects, townscape and landscape views and approach road views.

To identify and protect views of local significance through the preparation of local area plans, site development briefs and the assessment of development proposals on a case-by-case basis.

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*Objective 10.7:*

*Designated areas and protected species:*

- a) To protect enhance and conserve designated areas of natural heritage and biodiversity and the habitats, flora and fauna for which it is designated;
- b) To protect enhance and conserve designated species and the habitats on which they depend;
- c) To ensure that any plan/ project and any associated works, individually or in combination with other plans or projects are subject to Appropriate Assessment Screening to ensure there are no likely significant effects on the integrity (defined by the structure and function) of any Natural 2000 site(s) and that the requirements of Article 6 (3) and 6(4) of the EU Habitats Directive are fully satisfied. When a plan/project is likely to have a significant effect on a Natural 2000 site or there is uncertainty with regard to effects, it shall be subject to Appropriate Assessment. The plan/project will proceed only after it has been ascertained that it will not adversely affect the integrity of the site or where, in the absence of alternative solutions, the plan/project is deemed imperative for reasons of overriding public interest, all in accordance with the provisions of Article 6(3) and 6(4) of the EU Habitats Directive.

*Chapter 16: Development Management:*

*Section 16.59: Infill Housing:*

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;

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- Adequate amenity is proposed for the development.

## **9.0 ASSESSMENT**

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout / visual impact
- Impact on residential amenity
- Appropriate assessment

These are assessed as follows:

### **9.1 The Principle of the Proposed Development:**

9.1.1 The proposed development is described in the public notices as comprising '*Modifications to existing planning permission 14/36068*' and thus effectively amounts to a change of house type from that previously approved on site under PA Ref. No. 14/36068. Accordingly, I am satisfied that the subject application can be reasonably described as amending an extant grant of permission and, therefore, there is no need to revisit the wider merits and overall principle of the proposed development of a dwelling house on the site. Indeed, it is clear that the subject proposal is intrinsically linked to the grant of permission issued in respect of PA Ref. No. 14/36068 and that the amendments detailed in the subject proposal are reliant on the implementation of that extant grant of permission and cannot be carried out in isolation of same. Therefore, as the overall principle of the development of a dwelling house on this site has already been established under PA Ref. No. 14/36068, it would be inappropriate to revisit any issues of principle which have already been considered in the assessment of PA Ref. No. 14/36068.

### **9.2 Overall Design and Layout / Visual Impact:**

9.2.1 The proposed development involves the construction of a contemporarily designed two-storey dwelling house on a site overlooking the Douglas Estuary and in this regard concerns have been raised in relation to the overall visual impact of the proposal on the wider character of the surrounding area, particularly in light of the architectural styling of the structure and its compatibility with the prevailing pattern of development. It is of further relevance to note that the proposed development site is located in an area partially zoned as a

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*'Landscape Preservation Zone'* wherein it is the stated land use zoning objective *'To preserve and enhance the special landscape and visual character of landscape preservation zones'* and in this respect I would advise the Board that these areas have been designated for protection due to their sensitive landscape character and special amenity value, which derives from their distinct topography, tree cover, setting to historic structures, or other landscape character. Furthermore, it should be noted that there is limited or no development potential within these areas and that Objective 10.5: *'Landscape Preservation Zones'* of the Development Plan expressly states that development will only be considered where it safeguards the value and sensitivity of the particular landscape and achieves the respective site specific objectives as set out in Table 10.2. In this regard the proposed development site is located within the *'SE2: Douglas Estuary'* Landscape Protection Zone where the following landscape assets are required to be protected:

- 'B': Water / River Corridors - rivers, estuary, harbour, The Lough, Atlantic Pond, Docklands, Port of Cork.
- 'D': Ecology - areas which provide a habitat for wild flora and fauna.
- 'E': Visually Important Land (including Views and Prospects of Special Amenity Value, Potential Vantage Points and Locally Important Views).
- 'H': Public and Private Open Space footprint, including land with potential for Public Open Space.

9.2.2 In addition to the foregoing, consideration must also be given to the impact, if any, of the proposed development on views and prospects of special amenity value etc. identified for preservation in the Development Plan and in this respect I would refer, in particular, to *'Landscape and Townscape View: LT22'* (as referenced in Table 4 of Part 4 of Volume 3 of the City Development Plan) which concerns those views available from the South Ring Road over / towards the Douglas Estuary / Ridge.

9.2.3 Having conducted a site inspection, and following a review of the available information, it is readily apparent that any development at this location will undoubtedly impact to some degree on the visual amenities of the surrounding area, however, I would suggest that the sensitivity of the application site in visual terms must be balanced against its location in a wider urban context wherein it is the strategic policy of the Planning Authority to promote development. Furthermore, cognisance must be had to the fact that there is already an extant grant of permission on site for the construction of a dwelling house. Accordingly, it is my opinion that the key issues in the assessment of the subject proposal are

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the appropriateness of the submitted house design and its overall visual impact when compared to that of the dwelling house already approved on site under PA Ref. 14/36068.

9.2.4 In assessing the specifics of the submitted proposal, it is of relevance in the first instance to note that the actual positioning of the proposed development on site is generally comparable to the dwelling house previously approved under PA Ref. 14/36068 in that it is to be located outside of the identified '*Landscape Preservation Zone*' on lands zoned for '*Residential, Local Services and Institutional Uses*'. In addition, it should be noted that the two-storey element of the proposed construction will be located within the northern extremity of the application site in what would appear to be an attempt to increase the separation distance of same from both the Landscape Preservation Zone and the views over the Douglas Estuary from the Southern Ring Road.

9.2.5 In relation to the amended house design, I would accept that the subject proposal is clearly of a contemporary nature and that it employs an innovative design using modern construction materials and techniques. Whilst such an architectural approach is perhaps somewhat out of keeping with the prevailing pattern of development in the surrounding area which is dominated by conventional suburban housing types, I am inclined to suggest that given the site context, with particular reference to its 'backland' location recessed from the main public roadway and its limited visibility from within the local surrounds, the proposal can be accommodated on site without detriment to the character of the wider area. I would also concur with the Planning Authority that although the contemporary design proposed may not receive a universal welcome locally, it is certainly more interesting and visually stimulating than the house design already approved on site.

9.2.6 Therefore, on the basis of the foregoing, with particular reference to the site location and its planning history, I am satisfied that the visual impact arising as a result of the proposed development is within acceptable limits and does not warrant a refusal of permission.

### **9.3 Impact on Residential Amenity:**

9.3.1 Concerns have been raised in the grounds of appeal that the proposed development will have a detrimental impact on the residential amenity of the appellant's property primarily by reason of overlooking with an associated loss of privacy. In this regard, specific reference has been made to the proximity of the proposed two-storey construction to the site boundary, the finished floor level and



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overall height of the proposed dwelling house, and the orientation and positioning of windows within the development relative to the neighbouring property.

9.3.2 From a review of the available information, in my opinion, it is clear that the overall design and construction of the proposed dwelling house has taken adequate cognisance of the need to preserve the amenities of adjacent property whilst also aiming to avail of the opportunities afforded by the specifics of the site location, with particular reference to the views south-eastwards over the Douglas Estuary. In this respect it is of relevance in the first instance to note that whilst the positioning of the proposed dwelling house is generally comparable to that previously approved under PA Ref. 14/36068, the orientation of the proposed construction has been revised such that the main rear elevation of the dwelling house has been rotated anti-clockwise away from the appellant's property in order to face in an increasingly south-eastwards direction. Accordingly, this has served to reduce the potential for any direct overlooking of the appellant's dwelling house and its rear garden area.

9.3.3 With regard to the wider design of the proposed development, including its two-storey construction, whilst I would acknowledge that the dwelling house previously approved on site under PA Ref. 14/36068 comprised a single storey bungalow, having conducted a site inspection, and in light of the site context, I am satisfied that an appropriately designed two-storey structure can be accommodated on site, although I would emphasise that any such proposal must take adequate cognisance of the amenities of surrounding property. In this regard I would advise the Board that whilst concerns have been raised in relation to the increased height of the proposed dwelling house relative to that previously approved on site, it is notable that the subject proposal continues the gradual stepping down of the building heights from those properties presently under construction on the adjacent lands to the immediate north towards the estuary. However, in reviewing the wider implications of the increased height of the proposed dwelling house, it is necessary to consider the overall design of the proposal, including its proximity to the site boundary and the positioning / orientation of the proposed fenestration detailing etc.

9.3.4 The finished floor level of the proposed dwelling at +7.7mOD is 1.1m higher than that of the appellant's dwelling house to the immediate west (i.e. +6.6mOD), however, it should be noted that this is the same as that of the bungalow previously approved under PA Ref. 14/36068. Notably, whilst the proximity of the proposed construction is closer to the site boundary shared with the appellant's property than the earlier proposal, the submitted design has sought to limit the

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extent of glazing along the western elevation of the proposed dwelling house at ground floor level in order to reduce the likelihood (perceived or otherwise) of any overlooking. In this regard it is apparent from a review of the site layout plan that the closest window to the western site boundary is set back in excess of 4.0m from same and only serves a ground floor study area. At this point, I would suggest that some degree of overlooking would be not unexpected in an urban context whilst I would also draw the Board's attention to the provisions of Class 1 of Part 1 (Exempted Development – General) of Schedule 2 of the Planning and Development Regulations, 2001, as amended, which refers to the erection of extensions to dwelling houses. Column 2 of this class sets out a series of conditions and limitations in respect of the construction of such domestic extensions and Item No. 6(a) of same states the following:

*'Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces'.*

9.3.5 Whilst the subject proposal does not concern the construction of an extension by way of exempted development it is comparable in that it requires consideration to be given to the positioning of a ground floor window relative to an adjoining site boundary and in this respect I would advise the Board that the ground floor study window is considerably in excess of the minimum separation distance specified in Column 2 of Class 1 of the Regulations. Furthermore, it is noteworthy that any views available from the aforementioned window towards the appellant's property will be effectively screened by the existing hedging along the boundary line in addition to the 2m high wall which is proposed to be constructed to the east of same between the subject dwelling house and the site boundary. This will be further reinforced by the additional supplementary tree planting / landscaping proposed alongside the western site boundary. Accordingly, notwithstanding the difference in ground levels between the application site and the adjacent lands, on the basis of the foregoing, and following a review of the submitted drawings (with particular reference to Section 'B-B' as detailed on Drg. No. A-PA103), in my opinion, the ground floor window serving the study area within the western elevation of the proposed dwelling house will not result in any significant overlooking of the appellant's property and thus neither will any of the remaining windows proposed within the western elevation due to the separation distances involved.

9.3.6 In relation to the first floor accommodation, it should be noted that the western elevation of same has been set back from the building line of the ground floor level thereby increasing the separation distance between it and the

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appellant's property. Furthermore, the only window proposed within this gable elevation serves an en-suite bathroom which is to be glazed in opaque glass and thus it will not give rise to any significant overlooking of the appellant's dwelling house. Whilst there is a second western facing window at first floor level serving the master bedroom, in light of the separation distance involved, this is unlikely to result in any loss of amenity to the appellant's residence. Similarly, on the basis that the extent of the proposed first floor balcony area will be limited to that area which extends over the ground floor dining area (located approximately 20m from the western site boundary), I am satisfied that this element of the proposed development would not unduly impinge on the residential amenity of the appellant's property, however, if it were deemed necessary, the Board may wish to explore the option of omitting this balcony area by way of a condition attached to any grant of permission.

9.3.7 Having established that the proposed development will not result in any significant loss of privacy to the neighbouring property to the immediate west / southwest, it should also be noted that the design of the submitted proposal similarly serves to avoid any overlooking of the dwelling house presently under construction to the north due to the positioning of fenestration on the front (roadside) elevation. In addition, given that the lands to the east / northeast of the application site are in use as a golf course, no concerns as regards overlooking arise.

9.3.8 With regard to those further reservations raised in the grounds of appeal in relation to the alleged overbearing impact of the proposed dwelling house on the appellant's residence, having reviewed the submitted information, and following a site inspection, whilst I would concede that the proposal involves a greater scale of development on the application site than was previously approved, and also includes for a two-storey construction, it is my opinion that its overall design avoids any domineering or otherwise undue visual impact on the surrounding lands.

9.3.9 In relation to the potential impact of the proposed works on the site boundary shared with the appellant's neighbouring property, I am inclined to suggest that this is a civil matter for resolution between the parties concerned.

#### **9.4 Appropriate Assessment:**

9.4.1 From a review of the available mapping, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, it immediately adjoins the Cork Harbour Special Protection Area (Site Code:

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04030) which has been designated as such due to its ecological interest on the basis that it contains a high number of species (and wetlands) listed for protection under the E.U. Birds Directive.

9.4.2 It is the policy of the Planning Authority, as set out in Chapter 10 of the Cork City Development Plan, 2015 to protect, enhance and conserve designated areas of natural heritage, biodiversity and protected species, and in this respect I would refer the Board to Objective 10.7: *'Designated Areas and Protected Species'* of the Plan which states that development projects and plans likely to have significant effects on European Sites (either individually or in combination with other plans or projects) will be subjected to an appropriate assessment and will not be permitted unless they comply with Article 6 of the Habitats Directive.

9.4.3 In effect, it is apparent from the foregoing provisions that any development likely to have a serious adverse effect on a Natura 2000 site will not normally be permitted and that any development proposal in the vicinity of, or affecting in any way, a designated site should be accompanied by such sufficient information as to show how the proposal will impact on the designated site. Therefore, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.

9.4.4 Having reviewed the available information, including the screening assessment undertaken by the Planning Authority, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the planning history of the site, the nature and scale of the development proposed (including its amendment of an extant grant of planning permission), the availability of public services, the site location outside of the protected site, the current site context and its limited ecological value, and the separation distance between the proposed works and the adjacent Natura 2000 designation, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of the foregoing Natura 2000 site and would not undermine or conflict with the Conservation Objectives applicable to same.

9.4.5 Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans

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or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

## **10.0 CONCLUSIONS AND RECOMMENDATION**

Having regard to the foregoing I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

### **REASONS AND CONSIDERATIONS**

Having regard to the provisions of the Cork City Development Plan 2015-2021 and the nature of the proposed development consisting of a change of house type within an existing permitted scheme, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on the 19<sup>th</sup> day of November, 2014 under planning register reference number 14/36068, and any agreements entered into thereunder.

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**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

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

**Reason:** In the interest of visual amenity.

4. 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.

Signed: \_\_\_\_\_

Robert Speer  
Inspectorate

Date: \_\_\_\_\_