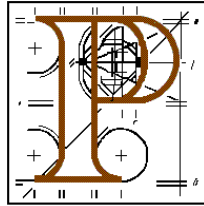

An Bord Pleanála



Inspector's Report

Appeal Reference No.: PL28.246655

Development: Construction of a single storey dwelling house including ancillary site works to rear of existing dwelling house.

'Roslyn', Bishopstown Park, Model Farm Road, Cork.

PLANNING APPLICATION

Planning Authority: Cork City Council

Planning Authority Ref.: 15/36699

Applicant: Hilda O'Shea

Type of Application: Permission

Planning Authority Decision: Grant subject to conditions

APPEAL

Type of Appeal: Third Party v. Decision

Appellant(s): Alison Keating

Observers: None.

Date of Site Inspection: 19th August, 2016

INSPECTOR: Robert Speer

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site occupies a backland location to the rear of an existing two-storey dwelling house known locally as 'Roslyn' in Bishopstown Park along the northern side of Model Farm Road, approximately 2.5km west-southwest of Cork City Centre and 150m northwest of the junction of the N71 National Road and the R608 Regional Road at Dennehy's Cross. The surrounding area is predominantly characterised by mature and established housing whilst Bishopstown Park itself comprises a series of substantial two-storey dwelling houses which have been developed on individual plots along a narrow roadway that terminates in a confined cul-de-sac (with no turning bay). The proposed development site has a stated site area of 0.298 hectares, is irregularly shaped, and presently comprises an undeveloped area of backland which would appear to have originally formed part of the rear garden area of the adjacent property at 'Roslyn' to the immediate west. In this respect it is notable that the site area is heavily vegetated with a number of mature tree specimens although some clearance works would appear to have been recently undertaken. Access to the site is obtained via an existing gated entrance onto Bishopstown Park which subsequently extends along a narrow passageway between the adjacent properties to the north and south before accessing the main body of the site. To the immediate north, south and west the site adjoins neighbouring residential properties within Bishopstown Park whereas the lands to the east / northeast are located at a significantly lower elevation and are presently occupied by a Local Authority depot / warehouse. The site boundaries are generally defined by a combination of low wire fencing, panel sheeting, and various tree / hedge planting.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development, as initially submitted to the Planning Authority, consists of the construction of a contemporarily designed single storey dwelling house with a stated floor area of 264m² and an overall ridge height of 4.2m. The overall design is based on a principle rectangular plan (sited along an east-west axis) and utilises a mono-pitched roof construction (set behind a parapet detail). External finishes include render and the feature use of timber cladding whilst the design also includes extensive glazed areas, particularly along its southern elevation in order to avail of passive solar gain. The proposed construction further provides for a covered car port, an enclosed storage area, a service yard, terraced areas to the south and west of the main dwelling, and an outdoor swimming pool. Access to the site will be obtained via a new driveway which will

extend eastwards from a redeveloped entrance arrangement onto Bishopstown Park. Water supply and sewerage services are available from the public mains.

2.2 In response to a request for further information, amended proposals were subsequently submitted whereby the proposed dwelling house was repositioned 1m northwards whilst the swimming pool was omitted and replaced with a smaller reflection pool.

N.B. On 29th February, 2016 a Certification of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, was issued by the Planning Authority with regard to the subject proposal.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

PA Ref. No. 9117001. Was granted on 13th April, 1992 permitting Michael O'Shea permission for two storey houses at rear of Roslyn, Bishopstown Park, Model Farm Road, Cork.

3.2 On Adjacent Sites:

PA Ref. No. 9922863. Was granted on 22nd April, 1999 permitting The Bons Secours Sisters permission for a 40 No. bed community nursing home at Model Farm Road, Cork.

PA Ref. No. 0226414. Was granted on 23rd January, 2003 permitting the Southern Health Board outline permission for a Community Nursing Home at Farranlea Road, Cork.

PA Ref. No. 0529620. Was granted on 21st February, 2006 permitting Dan O'Sullivan permission to refurbish existing dwelling, to include alterations to existing vehicular and pedestrian access gates in roadside boundary wall, the demolition of a single storey extension and the construction of an extension to the dwelling at its northern side, all at Roslyn, Bishopstown Park, Cork.

PA Ref. No. 0833050. Was granted on 19th November, 2008 permitting the Health Service Executive permission for the following: The development will consist of a 100-bed Community Nursing Unit comprising 2 No. (2235sqm and 2202sqm) double storey residential courtyard buildings accommodating 50 beds each, ensuite bathrooms and support facilities; a 425sqm Entrance Foyer and a

single storey, 735sqm Therapy block accommodating treatment rooms, staff facilities, plant rooms and catering kitchen. The development will include the construction of 44 No. car parking bays, a new ESB substation/ switch room, generator, oil tank and refuse enclosure measuring 100sqm and all associated site and landscaping works. A new entrance will be created off Farranlea Road requiring the demolition of the existing boundary wall and the construction of a new boundary wall on Farranlea Road. All at Farranlea Road, Farranmacteige Td., Cork.

PA Ref. No. 0833120. Was granted on 11th August, 2008 permitting Dan O'Sullivan permission to refurbish existing dwelling to include alterations to existing facades, alterations to existing vehicular and pedestrian access gates in roadside boundary wall, the demolition of a single storey extension and the construction of an extension to the dwelling at its northern side, all at 'Roslyn', Bishopstown Park, Cork.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and Technical Reports:

Planner's Report: Notes that the proposed development accords with the relevant land use zoning objective before raising concerns as regards the overall design of the proposed dwelling house and the potential impact of same on the visual and residential amenities of neighbouring properties. Following the receipt of a response to a request for further information (which included a proposal to relocate the dwelling house 1m further north away from the southern site boundary), a final report recommended a grant of permission subject to conditions.

Drainage Division: No objection subject to conditions.

Roads Design & Construction: No objection subject to conditions.

4.2 Objections / Observations:

A total of 2 No. submissions were received from interested parties, either in support of, or opposition to, the proposed development, and the principle contents of same can be summarised as follows:

4.2.1 Ms. Alison Keating:

- Given the change in planning policy since the grant of permission issued on site for PA Ref. No. 9117001, it is imperative that the Planning

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- Authority set an appropriate precedent as regards any further proposals for the subdivision of rear gardens in the surrounding area.
- There is a need to respect the established pattern of development and to avoid impacting on the residential amenity of neighbouring properties.
 - There are concerns that the restricted width of the local road, when combined with the existing parking practices along same, will compromise the proposed vehicular access arrangements.
 - Further clarity is required as regards the proposed access arrangements in the interests of traffic safety.
 - The site layout plan is deficient in that it fails to detail the proposed development relative to adjacent properties.
 - The site location map does not accurately represent the objector's property relative to the application site.
 - Contradictory details have been provided as regards the boundary treatment proposals.
 - The design, orientation and elevation of the proposed dwelling house will result in overlooking of the rear garden area of the neighbouring property with a consequential loss of residential amenity.
 - The orientation of the proposed dwelling house is in contrast to that of the surrounding pattern of development in Bishopstown Park.
 - There are concerns that the clearance works / removal of trees on site will have a detrimental impact on the sylvan character of the area and will also result in overlooking of the objector's property.
 - No details have been provided of the location of the soakaways intended to serve the proposed swimming pool.
 - The discharge of chlorinated pool water to ground could potentially impact on the highly landscaped rear garden area of the neighbouring property.
 - There are concerns as regards the impact of the proposed discharge of chlorinated pool water to the groundwater supply.
 - The development as proposed will have a detrimental impact on the residential amenity of the objector's property.
 - Clarification is required as regards the future occupants of the proposed dwelling house.
 - Further clarity is required as to the extent of the site boundaries in order to ensure it does not encroach onto adjacent property.
 - The proposed development should be amended by way of further information to address the objector's concerns.

4.2.2 Mr. Dan O’Sullivan:

- The construction of a single storey dwelling house on the application site is an appropriate proposal which will minimise the impact on his residence.
- The proposed development will serve to address previous instances of occasional anti-social behaviour on site.

4.3 Prescribed Bodies / Other Consultees:

Irish Water: No objection subject to conditions.

4.4 Planning Authority Decision:

Following the receipt of a response to a request for further information, on 29th April, 2016 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 6 No. conditions which can be summarised as follows:

- Condition No. 1 – Refers to the submitted plans and particulars.
- Condition No. 2 – Requires the proposed dwelling house to be located as per Drg. No. PL-003 received by the Planning Authority on 5th April, 2016.
- Condition No. 3 – Requires the timber fencing proposed along the southern site boundary to be 2m in height and to extend westwards for a further 2m in order to preserve the privacy of the adjacent property. In addition, the existing metal sheeting located along the common boundary with the existing property (‘Roslyn’) is required to be removed in its entirety or otherwise replaced with timber fencing.
- Condition No. 4 - Refers to the design of the proposed entrance arrangement and associated works.
- Condition No. 5 – Refers to drainage services.
- Condition No. 6 – Requires the payment of a development contribution in the amount of €14,219.78.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- Whilst there is no objection to the development of a single-occupancy dwelling house on the subject site which is in keeping with the prevailing pattern of development, it is submitted that as the subject application is

the only proposal to have been lodged with the Planning Authority for the subdivision of a garden area in Bishopstown Park (to accommodate the provision of an additional dwelling house) in the last 23 No. years, it is imperative that an appropriate precedent be established in order to control the proposed subdivision of any further rear garden areas.

- Notwithstanding the grant of permission previously issued on site in respect of PA Ref. No. 9117001, given the changes in planning policy which have occurred in the intervening period, it is considered that the planning history of the application site cannot now be simply relied upon in the context of the subject proposal. Instead, it is essential that any new development proposal on this sensitive backland plot be fully re-assessed and respectful of the established pattern of development in the area whilst also avoiding any impact on the residential amenity of adjacent private properties.
- The roadway serving Bishopstown Park is very narrow and local residents park along its western side which results in considerable difficulties / traffic congestion for visitors etc. together with service and delivery trucks in addition to access for emergency vehicles should the need arise. Access / egress to and from the application site will also be seriously compromised by the existing parking arrangements of local residents which cannot be relocated to afford the applicant's appropriate manoeuvrability.
- The site layout plans do not appear to detail any sightlines to either side of the proposed site entrance due to the narrow width of the service road and the mature planting to either side of the entrance. Adequate sightlines must be available from the proposed entrance in order to afford safe entry and egress from the application site to the public road in order to protect the safety of existing road users and pedestrians.
- There are concerns with regard to the applicant's disclosure of her land ownership and the accuracy of the identification of the proposed development site. In this respect it is submitted that the application site as outlined in red does not corresponded with any of the boundaries identified by the Ordnance Survey. Furthermore, it is alleged that the applicant has title to additional lands adjoining the subject site which have not been disclosed in the application documentation.
- The appellant's concerns with regard to potential trespass of her property have not been adequately addressed and whilst it is accepted that legal title is not a matter for the planning process, it is submitted that the subject proposal shows the erection of large boundary screens (potentially on the appellant's lands).

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- The appellant has expended considerable time and money in developing her landscaped garden area and it is considered that the erection of a 2.4m high timber and concrete panel fence would be a wholly inappropriate intrusion on the sylvan nature of said garden. The privacy screen is only required as a result of the incorrect orientation and elevation of the proposed dwelling house
 - A request by the Planning Authority to re-design and relocate the proposed dwelling in order to protect the appellant's amenity without the need to erect the proposed screening was rejected by the applicant.
 - There are concerns that the submitted proposal, which suggests the removal of the existing boundary fencing and the replacement and / or relocation of same southwards, will result in further damage to the existing boundary screen planting that was already removed in part during the site clearance works undertaken to date.
 - The overall design of the proposed dwelling house is very contemporary and its orientation (north-south) is in total contrast to all other dwellings in Bishopstown Park. It will also be located at least 700mm above existing ground level whilst the full height floor-to-ceiling glazing will afford extensive southerly views across the appellant's rear garden area. Therefore, it is submitted that the proposed development will seriously impact on and diminish the private residential amenity of the appellant's rear garden area.
 - The extensive site clearance works already carried out on site, in addition to the proposed further removal of trees and shrubs, when taken in combination with the elevated and fully glazed nature of the submitted design, will result in clear and uninterrupted views over the appellant's rear garden area.
 - In order to preserve the appellant's residential amenity, the Board is requested to direct the applicant to re-design and relocate the proposed dwelling house so that the extensive glazed elements face eastwards in line with the orientation of all other dwellings in Bishopstown Park. Alternatively, the windows facing towards the appellant's property should be redesigned to only face east / west whilst the floor level, terraced area, and reflection pool should be returned to ground level with more detailed screen planting to be provided between the proposed dwelling and the site boundary.
 - In light of the sylvan character of the area, there are concerns as regards the extensive tree removal and the potential for the future loss of further trees which presently provide some visual screening between the proposed dwelling house and the appellant's rear garden area. It is also

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- submitted that the viability of these trees will be threatened in due course either due to their proximity to the proposed dwelling or, more likely, on the basis that they will give rise to excessive overshadowing of the southern glazed wall of the development during the summer months
- The plans submitted in response to the request for further information indicate new percolation areas, foul sewer pump sumps and drains directly beneath a number of trees which will likely have to be removed due to the damage caused to their root systems by the proposed excavation works.
 - The location of the southernmost soakaway is unacceptable as it poses an obvious threat to the survival of existing trees which afford some degree of screening to the appellant's property. Accordingly, the soakaway in question should be relocated to the north of the application site where no privacy issues arise and where there is sufficient land readily available.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

No further comments.

6.2 Response of the Applicant:

- The proposed development site has been in the ownership of the applicant's family since the late 1950s and it has always been the intention to construct a family home on the land.
- Prior to the lodgement of the subject application, the applicant engaged with neighbouring residents (including the appellant) to advise them of the development proposal and to ascertain any concerns they may have held with regard to same. The appellant was engaged on at least two occasions and, together with other residents, she expressed support for the proposed development, however, it is understood that in the week prior to the lodgement of the application the appellant erected a new chainlink fence closing off property located to the rear of her land which is under the leasehold ownership of the applicant (as detailed in the accompanying map). The appellant has been advised to vacate these lands but has yet to do so and thus it is submitted that these actions would support the view that the grounds of appeal may be regarded as vexatious.
- The orientation and positioning of the proposed dwelling is a considered response to the challenges of the site and the nature of the design brief. The proposed single storey construction takes advantage of the wider

portion of the available site and simultaneously provides an enjoyable garden space to the north in the more irregularly shaped portion of the site. The linear southern orientation enables the living / dining / bedrooms of the proposal to benefit from a southern aspect and passive solar gain which is desirable from a sustainability perspective.

- The submitted proposal was viewed as a fitting response during the course of pre-planning discussions and the architectural factors which inform the positioning and orientation of the proposed dwelling were also highlighted in the correspondence submitted to the Planning Authority on 4th April, 2016.
- Whilst the appellant has contested the orientation of the proposed development relative to existing properties in Bishopstown Park, it is considered that this contention is quite strained from an architecturally informed perspective. The existing dwellings which address Bishopstown Park are located less than 9m west from the public footpath whereas the proposed dwelling is positioned 53m from the same footpath and therefore does not address Bishopstown Park in any sense that would demand the orientation of the dwelling to respond to the existing residences along the public road.
- It should be noted that the mature hedgerow on the appellant's property has been recently replaced to the east by newly planted evergreen trees whilst some of the screening along the applicant's southern site boundary has been removed.
- Concerns with regard to the potential for overlooking of the neighbouring property to the immediate south have been primarily addressed through the provision of a timber screen positioned along the southern site boundary. This will provide additional screening of the neighbouring property to the south as it rises throughout to 1,800mm above the finished floor level of the proposed dwelling house. The proposed timber screen will run parallel to the proposed dwelling and will be supplemented by the planting of the boundary with hedgerow to the east and west which will prevent any overlooking of the proposed entrance driveway. Accordingly, it is submitted that both the occupant of the proposed development and the neighbouring property can enjoy their garden amenity space and an appropriate level of privacy.
- A tree arborist has been engaged to identify all tree and shrub species on the site and any such species due for removal are primarily for reasons of tree decay and in order to facilitate the proposed development.
- The map submitted with the planning application correctly identified and includes all the freehold title / interest of the applicant in those lands the

subject matter of the application. Following legal advice, the Board is further advised that the applicant also holds leasehold title to the lands identified on the accompanying map (marked with the letter 'B').

- The submitted map correctly identifies the lands to which the applicant has freehold title. The Ordnance Survey boundaries were drawn well within the curtilage of the curved line on the title maps. Inclusion of this additional strip of land now – is following the referral of the appeal documents to the applicant's solicitors for comment. The Board is further advised that the lands identified on the accompanying map form good leasehold title held by the applicant.
- The grounds of appeal reference numerous planning and engineering matters that were addressed by the Local Authority during the planning process and which have been responded to satisfactorily.
- Given the extensive mature screening and the secondary line of half-standard trees along the southern site boundary, together with the proposed construction of an additional screen wall, it is submitted that the amenities presently enjoyed by the appellant will not be diminished in any way by the proposed development and that the proposal will actually serve to provide a more secure and safe environment for all adjacent properties.

7.0 POLICY CONTEXT

7.1 National and Regional Policy:-

7.1.1 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 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.

7.2 Cork City Development Plan, 2015-2021:-

7.2.1 Land Use Zoning:

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*'.

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.

7.2.2 Other Relevant Sections / Policies:

Volume 1: Written Statement:

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;

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- 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 16: Development Management:

Part C: Residential Development

Objective 16.9: Sustainable Residential Development:

Residential developments shall be sustainable and create high quality places and spaces which:

- a) Deliver a quality of life which residents and visitors are entitled to expect in terms of amenity, safety and convenience;
- b) Provide adequate open space which are practical in terms of scale and layout and naturally supervised by the aspect of the dwellings it serves;
- c) Provide a good range of suitable facilities;
- d) Prioritise walking, cycling and public transport and minimise the need to use cars;
- e) Present an attractive appearance with a distinct sense of place;
- f) Are easy to access and navigate;
- g) Promote the efficient use of land in terms of density and plot ratio;
- h) Promote social integration and provides accommodation for a diverse range of household types and age groups;
- i) Enhance and protect the built and natural heritage

Section 16.58: Single Units Including Corner/Garden Sites:

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;

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- 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.

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;
- Adequate amenity is proposed for the development.

8.0 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 nature of the grounds of appeal
- The principle of the proposed development
- Overall design and layout
- Impact on residential amenity
- Traffic implications
- Appropriate assessment
- Other issues

These are assessed as follows:

8.1 The Nature of the Grounds of Appeal:

8.1.1. With regard to the suggestion that the Board may wish to dismiss the subject appeal pursuant to the provisions of Section 138(1) of the Planning and Development Act, 2000, as amended, on the basis that the said appeal is *'vexatious, frivolous or without substance or foundation'* or has been made *'with the sole intention of delaying the development'*, having considered the grounds of appeal, I am satisfied that it raises legitimate material planning considerations and thus I propose to assess same accordingly.

8.2 The Principle of the Proposed Development:

8.2.1 With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is located in an area zoned as *'ZO4: 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'*. In addition to the foregoing, it should also be noted that the surrounding area is primarily residential in character and that the prevailing pattern of development is dominated by conventional housing construction. In this respect I would suggest that the proposed development can be considered to comprise a potential infill site situated within an established residential area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* acknowledge the potential for infill development within established residential areas provided that a balance is 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.

8.2.2 Therefore, having considered the available information, with particular reference to the site context, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

8.3 Overall Design and Layout:

8.3.1 In terms of the overall design and layout of the proposed development, in my opinion, the submitted proposal represents an appropriately designed and scaled response to the site context given its backland location and positioning

relative to neighbouring residential properties. In this respect it is of relevance in the first instance to note that the application site is not overtly visible from the public road and that it is well screened by existing vegetation and adjacent development. Accordingly, the adoption of the contemporary architectural design proposed will not detract to any significant extent from the more traditional / conventional character of established development prevalent within both Bishopstown Park and the wider site surrounds. Furthermore, the proposed low-profile single storey construction of the dwelling house not only serves to reduce the visual impact of the overall development, but also limits its potential to adversely impact on the residential amenity of neighbouring properties by reason of overshadowing and the direct overlooking of private living space.

8.3.2 With regard to the positioning of the proposed dwelling house along a principle east-west axis, whilst I would accept that this orientation does not follow the existing pattern of development within Bishopstown Park, given the backland nature of the application site, its limited road frontage, and its siting behind the established building line of neighbouring properties, I would concur with the applicant that there is no definitive need for the subject proposal to directly address the public road. Similarly, I am in agreement that the proposed orientation of the dwelling house takes advantage of the wider dimension of the available site and also provides for a large garden area within the more irregularly shaped northern portion of the site. In addition, it is clear that the elongated east-west axis of the proposed construction, when taken in conjunction with the inclusion of a considerable extent of glazing along the principle south-facing elevation of the dwelling house, is intended to maximise the potential for passive solar gain arising from the southern aspect of the development.

8.3.3 On balance, whilst I would accept that the subject proposal is of a contemporary nature and that it employs an innovative design using modern construction materials and techniques, and although 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 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.

8.3.4 Therefore, on the basis of the foregoing, with particular reference to the site location and context, I am satisfied that the overall design and layout of the proposed development is acceptable.

8.4 Impact on Residential Amenity:

8.4.1 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 construction to the site boundary, the orientation and finished floor level of the proposed dwelling house relative to the neighbouring property, and the extent of glazing / fenestration included within the south-facing elevation of the proposed development.

8.4.2 Whilst I would acknowledge in the first instance that the backland nature of the proposed development site and the siting of a dwelling house to the rear of existing properties has the potential to give rise to overlooking with a consequential loss of residential amenity, I am inclined to suggest that the overall design of the proposed development has taken sufficient cognisance of the need to preserve the amenities of adjacent property. In this respect I would refer the Board to the single storey construction and the orientation of the proposed dwelling house as an inherent response to the challenges posed by the application site and the need to avoid undue overlooking of adjacent residences. For example, the adoption of a single floor design clearly serves to obviate any overlooking which would typically be associated with more conventional two-storey developments whilst the alignment of the dwelling house along an east-west axis also serves to avoid any direct views into the living spaces of adjacent residences.

8.4.3 With regard to the finished floor level of the proposed dwelling house and the inclusion of a considerable expanse of glazing within the southern elevation of the structure which will face towards the rear garden area of the appellant's property to the immediate south, it is my opinion that the separation distance between the new construction and the site boundary, when taken in conjunction with the submitted landscaping scheme (which includes for the retention of several mature tree specimens in addition to the provision of further supplementary planting) and the proposal to construct screen fencing along that section of the site boundary which corresponds to the length of the proposed dwelling house, will serve to mitigate any potential undue overlooking of the appellant's private amenity space. In this respect I would refer the Board to the revised proposals received by the Planning Authority on 5th April, 2016 in response to a request for further information wherein the applicant has set back the proposed dwelling house an additional 1m from the southern site boundary in

order to achieve a separation distance of between approximately 13.5m - 16.3m and has also proposed the construction of a post and timber panel fence of a continuous and consistent height which will extend to a minimum of 1.8m above the finished floor level of the proposed dwelling house. It is also notable that the proposed swimming pool has been omitted and replaced with a 'reflection pool' which would seem to suggest a reduction in the likely level of outdoor activity conducted at this location thereby further reducing any potential impact on the amenities of the adjacent property by reason of overlooking, noise, disturbance etc.

8.4.4 At this point, I would suggest that some degree of overlooking would be not unexpected in an urban context and in support of same 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'.

8.4.5 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 ground floor windows relative to an adjoining site boundary and in this respect I would advise the Board that the windows along the southern elevation of the proposed dwelling are considerably in excess of the minimum separation distance specified in Column 2 of Class 1 of the Regulations.

8.4.6 On the basis of the foregoing, I am satisfied that given the separation distances involved, the existing and proposed boundary screening measures, and the site location in an urban context where some degree of overlooking would be not unexpected, the proposed development is unlikely to give rise to any significant impact on the residential amenities of the appellant's property.

8.5 Traffic Implications:

8.5.1 The proposed development will be accessed directly from Bishopstown Park via a new entrance arrangement, however, concerns have been raised that the submitted proposal will exacerbate the existing difficulties / traffic congestion

along this section of roadway. In this respect I would refer the Board to the limited width of the existing carriageway, the absence of any dedicated turning facilities at the end of the cul-de-sac, and the current practice of local residents in parking along the roadside which serves to restrict the free-flow of vehicles.

8.5.2 Whilst I would acknowledge the limited capacity of the existing roadway serving Bishopstown Park to accommodate any further traffic volumes, it should be noted that the proposed development site occupies a backland location and that there are no alternative means by which to access the site directly. Furthermore, given that the submitted proposal only involves the development of a single dwelling house, it is my opinion that the existing roadway has sufficient remaining capacity to accommodate the likely traffic volumes consequent on the proposed development. It is of further relevance to note that the subject site is presently served by an existing access arrangement onto Bishopstown Park which will be upgraded as part of the submitted proposal and that the proposed development will provide for dedicated off-street car parking thereby avoiding any necessity for traffic associated with the proposal to park along the roadside.

8.5.3 With regard to the suggestion that access / egress to and from the application site will be seriously compromised by the existing parking arrangements of local residents, I would refer the Board to the proposed splayed entrance arrangement to the site as detailed on Drg. No. PL-404 Rev. B: *'Driveway Proposal'* received by the Planning Authority on 5th April, 2016 in response to a request for further information. In my opinion, this entrance design represents a considerable improvement over the existing site access arrangements and will provide for improved vehicular access to and from site. Furthermore, it should also be noted that although some of the existing residents of Bishopstown Park chose to park on the public road, each of the existing dwelling houses along this street has dedicated on-site parking facilities and thus traffic congestion could potentially be mitigated in part through the increased usage of same.

8.5.4 In relation to the sightlines available from the proposed entrance onto the public road, given the site location along a narrow cul-de-sac of housing, the presence of pedestrian footpaths along both sides of the carriageway, and the relatively low traffic volumes and speeds using the existing roadway, it is my opinion that the sightlines available from the entrance onto the public roadway are generally satisfactorily.

8.5.5 Therefore, on balance, I am satisfied that the proposed site access arrangements are acceptable and that the subject proposal will not endanger public safety by reason of traffic hazard.

8.6 Appropriate Assessment:

8.6.1 Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.7 Other Issues:

8.7.1 Land Ownership:

8.7.1.1 Concerns have been raised in the grounds of appeal as regards an alleged infringement of the property boundary and the associated potential for encroachment of the neighbouring lands. In this respect it has been submitted that the boundaries of the proposed development site do not correspond with the available Ordnance Survey mapping and that further clarification is required so as to avoid any potential issues of trespass. In response, the applicant has rejected the appellant's assertion and has submitted that the subject proposal has correctly identified all those lands within her ownership.

8.7.1.2 In respect of the foregoing, I would advise that it is not the function of the Board to adjudicate on matters pertaining to boundary disputes. Accordingly, any alleged encroachment or interference with the appellant's property is essentially a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

8.7.1.3 Finally, with regard to any dispute pertaining to those lands to the rear of the appellant's property and which are seemingly held under leasehold title by the applicant, it is my opinion that such matters are of little relevance in the determination of the subject appeal and thus I do not propose to comment further on same save to reiterate my earlier reference to the provisions of Section 34(13) of the Planning and Development Act, 2000, as amended.

8.7.2 Drainage Services:

8.7.2.1 With regard to the appellant's comments in relation to the siting of the proposed soakaways, I would suggest that such matters can be satisfactorily addressed by way of condition.

9.0 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 set out below:

Reasons and Considerations:

Having regard to the location and residential zoning of the site, the pattern of development in the area, and the scale and design of the proposed dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would offer a satisfactory level of residential amenity to future occupants, would be acceptable in terms of traffic safety and convenience and would 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 as amended by the further plans and particulars submitted on the 5th day of April, 2016, 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. Water supply and 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.

3. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

4. 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.

5. Prior to commencement of development, the developer shall submit to the planning authority, for written agreement, complete details of all proposed boundary treatment within and bounding the proposed development site.

Reason: In the interest of visual and residential amenity.

6. Site development and building works shall be carried out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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 site development and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried out on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction waste.

Reason: In the interests of public safety and residential amenity.

9. The landscaping scheme shown on Drg No. TR15-77-A, as submitted to the planning authority on the 23rd day of December, 2015, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual 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.

Signed: _____

Robert Speer
Inspectorate

Date: _____