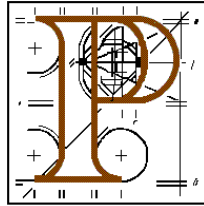


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# An Bord Pleanála



## Inspector's Report

Ref.: PL04. 246996

Development: To construct a dwelling house and all associated site works.

Site No. 1 Marmullane, Pembroke (townland),  
Passage West, Co. Cork.

### **PLANNING APPLICATION**

Planning Authority: Cork County Council

Planning Authority Ref.: 16/4389

Applicant: T.F.T. Construction

Type of Application: Permission

Planning Authority Decision: Grant subject to conditions

### **APPEAL**

Type of Appeal: Third Party v. Decision

Appellant: Liam Nolan

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 25<sup>th</sup> October, 2016

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## **1.0 SITE LOCATION AND DESCRIPTION**

1.1 The proposed development site is located at Marmullane, Pembroke (townland), in the small satellite town of Passage West, Co. Cork, approximately 9.5km southeast of Cork City Centre, in an established residential area which is predominantly characterised by conventional single storey / dormer / two-storey semi-detached / detached housing. The site itself has a stated site area of 0.0849 hectares and forms part of wider parcel of land presently undergoing development works which occupies an elevated position along a localised ridge line that overlooks Cork Harbour. It is bounded by the Ard Chuain / Beechwood housing developments to the north and east, which generally comprise individually designed detached dwelling houses on substantial plots, and in this respect it is of particular relevance to note that the adjacent property to the immediate north is located at a considerably lower elevation than the application site and is presently occupied by a contemporary, two-storey, detached private residence. Whilst the site itself is located within a larger landbank that is presently being developed for residential purposes (i.e. 12 No. serviced sites), the adjoining lands beyond same are occupied by a large detached property set within extensive grounds to the west whilst more conventional suburban housing occupies those lands to the south (Bloomingdale / Hillcrest) and further west (Pembroke).

## **2.0 DESCRIPTION OF PROPOSED DEVELOPMENT**

2.1 The proposed development consists of the construction of a detached, split-level, dormer-style bungalow with a stated floor area of 196.1m<sup>2</sup> and an overall ridge height of 6.479m on a serviced site located at the northernmost end of a cul-de-sac of approved housing. The overall design of the proposed dwelling house is conventional and external finishes will include a smooth plaster, the feature use of stone facing, and black concrete roof tiles. Access to the site will be obtained from Ard Chuain via the service roadway previously approved under PA Ref. No. 13/05607 / ABP Ref. No. PL04.242980 which is presently undergoing construction. Water and sewerage facilities will be available from the public mains network.

2.2 In response to a request for further information, the applicant submitted an amended site layout plan which details the proposed boundary treatment arrangements.

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N.B. With regard to compliance with the requirements of Section 96 (Part V) of the Planning and Development Act, 2000, as amended, the Board is referred to Condition No. 18 of the grant of permission issued in respect of ABP Ref. No. PL04.242980 which stated the following:

*'In accordance with the provisions of section 96 of the Planning and Development Act, 2000, as amended, the applicant, or any other person with an interest in the land to which the application relates, as may be specified by the planning authority, shall enter into an agreement with the planning authority in relation to the provision of social and affordable housing, in accordance with the requirements of the planning authority's housing strategy, unless they shall have applied for and been granted an Exemption Certificate under section 97 of the Planning and Development Act, 2000, as amended. The agreement shall also apply to any grant of permission for houses pursuant to the present grant of permission and all relevant provisions of section 96, including section 96(8), shall have effect.*

*Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area'.*

### **3.0 RELEVANT PLANNING HISTORY**

#### **3.1 On Site:**

PA Ref. No. 12/5129 / ABP Ref. No. PL04.241461. Was refused on appeal on 30<sup>th</sup> April, 2013 refusing O'Brien and O'Flynn permission for the development of 25 No. residential serviced sites and all associated ancillary development works including access landscaping and amenity areas, access to the proposed development will be from Church Hill / Ard Chuain estate and through an area previously granted permission as open space under planning register reference number 01/1280 and An Bord Pleanala appeal reference number PL04.130502, for the following reasons:

- Having regard to the plans and timescale of the planning authority with regard to the upgrading of public wastewater infrastructure in the area, the provisions of the current development plan for the area, the pattern of development in the area and the requirement for the orderly development of lands in the town, it is considered that the proposed development would be premature by reference to an existing deficiency in the provision of public sewerage facilities and the period within which the constraints

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involved may reasonably be expected to cease. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- The proposed development is reliant on the discharge of effluent into Cork Harbour in proximity to Cork Harbour Special Protection Area (Site Code: 004030) and the Great Island Channel candidate Special Area of Conservation (Site Code: 001058). In the absence of a screening for appropriate assessment under article 6 of the Habitats Directive, the Board is not satisfied that the proposed development, alone and in combination with other plans or projects, would not be likely to have a significant effect on a Natura 2000 site in view of the site's conservation objectives. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 13/05607 / ABP Ref. No. PL04.242980. Was granted on appeal on 6<sup>th</sup> June, 2014 permitting O'Brien and O'Flynn permission for the retention and completion of an entrance and access road through part of the Church Hill / Ard Chuain estate in an area previously permitted as open space under planning register reference number 01/1280, An Bord Pleanála reference number 04.130502, and permission for 12 No. residential serviced sites and all associated ancillary development works including car parking, access, landscaping, amenity areas, storm water attenuation and wastewater treatment plant.

### 3.2 On Adjacent Sites:

PA Ref. No. 01/1280 / ABP Ref. No. PL04.130502. Was granted on appeal on 12<sup>th</sup> February, 2003 permitting Mel Fitzgerald permission for a development comprising site development works for 18 No. two-storey dwelling houses with access from Beechcourt, Church Hill at Marmullane, Pembroke, Passage West, Co. Cork.

PA Ref. No. 16/4390. Was granted on 10<sup>th</sup> August, 2016 permitting TFT Construction permission to construct a dwelling house and all associated site works at Site No. 2, Marmullane, Pembroke Td., Passage West, Co. Cork.

*N.B.* The Board is advised that permission has been granted by the Planning Authority for the development of individual dwelling houses on the remainder of those serviced sites permitted under ABP Ref. No. PL04.242980 (i.e. Site Nos. 2-12) pursuant to PA Ref. Nos. 16/4390 – 16/4400 inclusive.

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## **4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION**

### **4.1 Decision:**

Following the receipt of a response to a request for further information, on 6<sup>th</sup> July, 2016 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 21 No. conditions. These conditions are generally of a standardised format and relate to issues including Part V, development contributions, construction management, and infrastructural services, however, the following conditions are of note

Condition No. 2 – Requires the proposed development to comply with the terms and conditions of PA Ref. No. 13/5607 / ABP Ref. No. PL04.242980 which governs the overall development of the wider lands of which the subject site forms part (save where subsequently amended by the terms and conditions of the subject grant of permission).

Condition No. 13 – Requires all of the road and footpath works detailed in Drg. Nos. 0907-2-A01 & 0907-2-A13 of PA Ref. No. 13/5607 to be completed prior to the commencement of any construction of the dwelling house.

Condition No. 18 – Prohibits any occupation of the dwelling house until all infrastructural services (i.e. roads, footpaths, watermain & sewers etc.) serving the dwellings have been installed and are functioning to the satisfaction of the Planning Authority.

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

A single submission was received from the appellant and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental impact on residential amenity by reason of overlooking, loss of privacy & overshadowing.
- Excessive building height and finished floor level.
- Negative visual impact / positioning relative to the skyline.
- The need for mitigation of constructional impacts.

### **4.3 Internal Reports:**

*Estates Primary:* No objection subject to conditions.

*Area Engineer:* No objection subject to conditions.

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#### **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 proposed dwelling house will result in overshadowing and overlooking of the appellant's property due to its increased ridge height and proximity to the site boundary. In this respect the Board is advised that the dwelling house previously approved on site under PA Ref. No. 13/05607 / ABP Ref. No. PL04.242980 was positioned 13.398m from the shared site boundary whereas the subject proposal is only 5.843m from that boundary. In addition, the ridge height of the proposed dwelling house has been increased from 60.3m to 60.99m.
- Mass concrete walls have already been poured along the boundary with the appellant's property whilst the garden level of the site has also been raised. Consequently, there is now a difference of approximately 2m between the garden level of the application site and that of the appellant's property whereas prior to these works (as shown in PA Ref. No. 13/05607 / ABP Ref. No. PL04.242980) the garden area followed the natural gradient of the land.
- In its decision to grant permission for PA Ref. No. 13/05607 / ABP Ref. No. PL04.242980 the Board imposed a condition whereby the dwelling houses would be of a single storey construction. In contrast, the submitted proposal essentially provides for the development of a two-storey dwelling house.
- In its determination of PA Ref. No. 13/05607 / ABP Ref. No. PL04.242980, the Board imposed a condition whereby all site development works were to be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 and 1400 on Saturdays, and not at all on Sundays. Accordingly, in the event of a grant of permission, and as these conditions have already been breached on site, the Board is requested to impose similar conditions given that the decision of the Planning Authority has not included for same. Furthermore, no deliveries to the site should be permitted to occur on Sundays as has been the case in the past.

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

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

None.

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

- The proposed development will not cause a reduction in light or undue privacy concerns for the neighbouring property.
- With regard to the suggestion in the grounds of appeal that the location of the proposed dwelling house on Site No. 1 was fixed in the Board's determination of ABP Ref. No. PL04.242980, it should be noted that the aforementioned grant of permission only approved the development of 12 No. residential serviced sites (and ancillary development works) and did not seek permission for individual dwelling houses. Furthermore, the sole purpose of the indicative building footprint detailed in the site layout plan for PA Ref. No. 13/5607 / ABP Ref. No. PL04.242980 was to demonstrate that each individual site was of sufficient size to accommodate the future construction of a dwelling house.
- The imposition of Condition No. 2 in the grant of permission issued for ABP Ref. No. PL04.242980 whereby all houses are required to be single storey, or single storey with split-level floors, has implications for the development of the subject site in that any such housing design will automatically require a larger footprint than a two-storey construction with a similar floorspace, however, it is considered that the subject proposal is appropriate for the site and in no way could be considered excessive.
- In relation to the location of the proposed dwelling on site, it should be noted that the restriction to a single storey design allows the proposed dwelling house to be located closer to the adjoining (appellants) property to the north than would be the case with a two-storey dwelling.
- Similar to the indicative building footprints detailed in PA Ref. No. 13/5607 / ABP Ref. No. PL04.242980, the finished floor levels and ridge heights of the proposed dwelling houses were to be included in subsequent planning applications on each of the approved serviced sites.
- The requirement for a single storey construction as imposed by Condition No. 2 of ABP Ref. No. PL04.242980 also provides for a degree of protection to the applicant's property and, therefore, any further changes to the finished floor level / ridge height are considered to be unnecessary and unwarranted.
- With regard to the assertion in the grounds of appeal that the proposed development will *'cause a reduction in light in to our [the appellants]*

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*property and will cause us undue privacy concerns'*, although the proposed dwelling house will be located 5.843m from the northern site boundary, there is a separation distance of approximately 15m between the appellant's property and the proposed dwelling whilst the existing mature screening located along the intervening site boundary will be retained.

- In view of the separation distance between the respective properties, the suggestion that the increased ridge height of the proposed dwelling house could have an adverse impact on the appellant's property by reason of a loss of light is rejected.
- The accompanying shadow impact analysis demonstrates that even when the potential for overshadowing would be well above average, the proposed dwelling house will not result in any adverse overshadowing of the appellant's property.
- The absence of any windows within the north-facing elevation of the proposed dwelling house (with the exception of 2 No. rooflights serving en suite bathrooms), in addition to the presence of a substantial mature hedgerow between the appellant's property and the subject site, will ensure that the proposed development does not give rise to any loss of privacy.
- The proposed garden / site levels are consistent with the grant of permission issued in respect of PA Ref. No. 13/5607 / ABP Ref. No. PL04.242980 and are required to facilitate the orderly development of the site.
- Notwithstanding the fact that any concerns as regards alleged non-compliance with the grant of permission issued in respect of PA Ref. No. 16/4389 / ABP Ref. No. PL04.246996 (i.e. the subject application) should be referred to the Planning Authority, it is submitted that all works (including the site / garden levels) carried out on site to date comply in full with the terms and conditions of the grant of permission.
- There is a natural change in level between the application site and the appellant's property, however, the proposed ground levels on Site No. 1 (and all other sites across the wider development) have been carefully conceived to provide for an appropriate balance between minimising unnecessary site works and providing good quality amenity space on each site without having an adverse impact on adjoining lands / properties.
- The Board is requested to note that the ground levels proposed on site will have no impact whatsoever on the appellant or his property.



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- The scale of the proposed dwelling house accords with the terms and conditions of the grant of permission issued in respect of ABP Ref. No. PL04.242980 and is entirely appropriate to the site.
  - Contrary to the assertion in the grounds of appeal that the subject proposal is ‘*essentially a two storey house*’, the proposed development consists of the construction of a split-level single storey dwelling house and, therefore, accords with the requirements of Condition No. 2 of ABP Ref. No. PL04.242980 which states that ‘*all houses shall be single storey, or single storey with split level floors*’.
  - The hours of construction are set out in the parent grant of permission issued in respect of ABP Ref. No. PL04.242980 which governs the development of the wider landbank of which the subject site forms part.
  - It can be confirmed that the applicant will strictly adhere to Condition No. 10 of ABP Ref. No. PL04.242980 (in addition to Condition Nos. 2 & 5 as imposed by the Planning Authority in its notification of a decision to grant of permission for the subject proposal) throughout the entirety of the site development and building works.

## **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 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 County Development Plan, 2014:-**

#### **Chapter 3: Housing:**

Section 3.3: *Delivering Sustainable Residential Communities*

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*HOU 3-1: Sustainable Residential Communities:*

- a) Ensure that all new development within the County supports the achievement of sustainable residential communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, in development plan preparation and in assessing applications for development through the development management process.
- b) Promote development which prioritises and facilitates walking, cycling and public transport use, both within individual developments and in the wider context of linking developments together and providing connections to the wider area, existing facilities and public transport nodes such as bus and rail stops.
- c) Following the approach in chapter 10 of this plan, ensure that urban footpaths and public lighting are provided connecting all residential developments to the existing network of footpaths in an area and that the works required to give effect to this objective are identified early in the planning process to ensure such infrastructure is delivered in tandem with the occupation.

*HOU 3-2: Urban Design:*

- a) Ensure that all new urban development is of a high design quality and supports the achievement of successful urban spaces and sustainable communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas, the accompanying Urban Design Manual and the Council's Design Guide for Residential Estate Development in development plan preparation and in assessing applications for development through the development management process.
- b) Provide additional guidance, including principles and policies, on urban design issues at a local level, responding to local circumstances and issues. Where appropriate Local Area Plans will consider the need for the provision of additional guidance in the form of design briefs for important, sensitive or large scale development sites.
- c) Require the submission of design statements with all applications for residential development in order to facilitate the proper evaluation of the proposal relative to key objectives of

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the Development Plan with regard to the creation of sustainable residential communities.

- d) Require developers to take account of the Design Manual for Urban Roads and Streets (DMURS).

*HOU 3-3: Housing Mix:*

- a) Secure the development of a mix of house types and sizes throughout the County as a whole to meet the needs of the likely future population in accordance with the guidance set out in the Joint Housing Strategy and the Guidelines on Sustainable Residential Development in Urban Areas.
- b) Require the submission of a Statement of Housing Mix with all applications for multiunit residential development in order to facilitate the proper evaluation of the proposal relative to this objective.

*Section 3.4: Housing Density:*

*Medium Density 'A' Development:*

No changes are proposed to the definition of medium density development but it is proposed to rename the category Medium Density 'A'. The new category includes a statement indicating that whilst apartment development is permissible on land zoned for medium density development there will be no requirement for this form as part of the mix of units on a particular site.

Under these proposals, there will be an overlap in the definitions between the upper end of the medium density scale and the lower end of the high density scale. Also in order to encourage a broader mix of dwelling types a reduction in the public open space requirement where larger private gardens are provided will be considered.

*Chapter 14: Zoning and Land Use:*

*Section 14.3: Land Use Zoning Categories: Residential*

***Carrigaline Electoral Area Local Area Plan, 2011 (2<sup>nd</sup> Ed. January, 2015):-  
Land Use Zoning***

The proposed development site is located in an area zoned as 'Residential' with the specific zoning objective 'R-03: Medium A density residential development'.

*Other Relevant Sections / Policies:*

*Section 1: Introduction to the Carrigaline Electoral Area Local Area Plan*

*Section 2: Local Area Strategy*

## **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
- 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 site is located within the settlement boundary of Passage West as identified in the Carrigaline Electoral Area Local Area Plan, 2011 on lands zoned as '*Residential*' with the specific zoning objective '*R-03: Medium A density residential development*'. Furthermore, it should be noted that the surrounding area is primarily residential in character and that the prevailing pattern of development is dominated by conventional suburban housing. In this respect it is of relevance to note that the proposed development involves an 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, 2008*' 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. In addition, further credence is given to the submitted proposal by way of the precedent set by the grant of permission issued in respect of PA Ref. No. 13/05607 / ABP Ref. No. PL04.242980 which has already established that the development of 12 No. serviced sites within the wider landbank is acceptable in principle through the approval of the necessary site development works.

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9.1.2 Therefore, having considered the available information, and in light of 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.

**9.2 Overall Design and Layout:**

9.2.1 The proposed development involves the construction of a conventionally designed split-level, dormer-style bungalow in a format directly comparable to that already approved by the Planning Authority under PA Ref. Nos. 16/4390, 164391 & 164392 on Site Nos. 2, 3 & 4 (which form part of the wider scheme of serviced sites authorised under ABP Ref. No. PL04.242980). It is of further relevance to note that the dwelling houses approved on Site Nos. 5 & 6 under PA Ref. Nos. 164393 & 164394 are also comparable to the subject proposal whilst a similar design theme has been employed in respect of those single storey dwelling houses permitted on Site Nos. 7-12. Accordingly, it is clear that the overall design of the subject proposal is consistent with the permitted pattern of development within the immediate site surrounds (i.e. the scheme of serviced sites permitted under ABP Ref. No. PL04.242980).

9.2.2 However, with regard to the specifics of the proposed design, I would refer the Board to Condition No. 2 of the grant of permission issued in respect of ABP Ref. No. PL04.242980 as follows:

*'The siting, design, and layout of the houses to be served by the site development works herein permitted shall be subject to separate planning application(s). All houses shall be single storey, or single storey with split level floors. No two-storey or dormer houses shall be permitted.'*

*Reason: In the interest of clarity and visual amenity'.*

9.2.3 In this respect it has been asserted in the grounds of appeal that the proposed development involves the construction of a two-storey dwelling house in contravention of the aforementioned condition and thus it should be refused permission. However, the applicant has responded to the foregoing by stating that the submitted proposal simply consists of the construction of a split-level single storey dwelling house which accords with the requirements of Condition No. 2 of ABP Ref. No. PL04.242980.

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9.2.4 Having reviewed the available information, in my opinion, it is clear that the inclusion of the dormer element within the submitted design materially contravenes Condition No. 2 of the original grant of permission issued for ABP Ref. No. PL04.242980 which authorised the development of the subject lands as a residential serviced site. In this regard, I am unconvinced by the suggestion put forward by the applicant that the subject proposal involves a single-storey dwelling house design incorporating a split-level floor on the basis that the inclusion of a second floor of accommodation over that at ground floor level cannot reasonably be construed as encompassing anything other than a two-storey construction in the form of a dormer-style bungalow.

**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) and overshadowing. In this regard, specific reference has been made to the proximity of the proposed construction to the site boundary, the overall ridge height of the proposed development, and the finished floor level / elevation of the proposed dwelling house relative to the neighbouring property.

9.3.2 With regard to the proximity of the proposed dwelling house to the northern site boundary (and the appellant's property), I would refer the Board at the outset to the site layout plan approved under ABP Ref. No. PL04.242980 which detailed the location of an 'indicative' building footprint for the future construction of a dwelling house on the subject site (Site No. 1) within the eastern extent of same. In that instance it would appear that the intended future positioning of any housing development on the subject site, in addition to the proposed orientation of same along an approximate north-south axis, would have served to maximise the separation distance between the new construction and the appellant's property to the immediate north, however, the subject proposal has adopted an alternative design approach whereby the proposed dwelling is to be aligned along an east-west axis with the result that the separation distance between it and the northern site boundary has been reduced accordingly. Whilst I would acknowledge the legitimacy of the appellant's concerns as regards this apparent shifting of the proposed construction closer to his dwelling house, I am inclined to concur with the applicant in that it must be conceded that the grant of permission issued in respect of ABP Ref. No. PL04.242980 only authorised the development of a serviced site and that the building footprint detailed on the site layout plan approved as part of that application was expressly referenced as 'indicative' only.

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9.3.3 In relation to the overall height and finished floor level of the proposed dwelling house, it would appear that the appellant's reference to a ridge height of 60.3m having been previously approved on site pursuant to ABP Ref. No. PL04.242980 is derived from Drg. No. 090-7-2-A09: 'Site Sections' of that application which details in 'Section 3' that the future dwelling house on the subject site would have a ridge height of 60.3m and a finished floor level of 52.5m. Notably, the corresponding site layout plan clarifies that the planned dwelling house would have a split-level design with a lower finished floor level of 52.5m and a higher finished ground floor level of 55.00m. However, it is of the utmost relevance to note that the site plans etc. which initially accompanied PA Ref. No. 13/05607 (ABP Ref. No. PL04.242980) were subsequently superseded by revised drawings provided by the applicant in response to a request for further information and in this respect I would refer the Board to Drg. No. 0907-2-A01: 'Site Layout' received by the Planning Authority on 4<sup>th</sup> December, 2013 which detailed amended 'lower' and higher' finished floor levels of 54.00m and 56.5m respectively. Whilst it is perhaps regrettable that up-dated sectional drawings detailing these revised levels relative to the appellant's property were not provided with that further information, Condition No. 1 of the grant of permission issued for ABP Ref. No. PL04.242980 specifically references the amended drawings received by the Planning Authority on 4<sup>th</sup> December, 2013. Accordingly, a comparison of the proposed finished ground floor levels of the subject proposal (i.e. 54.65m & 55.10m) would indicate that they generally correspond with the later levels approved under ABP Ref. No. PL04.242980 (i.e. 54.00m and 56.5m), although it is my opinion that as ABP Ref. No. PL04.242980 only approved serviced 'sites', the final design of any dwelling house proposed on the site (including details such as height, floor level etc.) remains open for consideration in the assessment of the subject application.

9.3.4 In terms of the specific design of the proposed development, it is apparent that efforts have been made to limit the potential for direct overlooking of the appellant's property as the only first floor fenestration within the northern elevation of the proposed dwelling house comprises 2 No. rooflights serving en-suite bathrooms whilst no windows have been included at ground floor level within that elevation. In addition, it is notable that the proposal to retain the mature screening along the intervening site boundary between the respective properties will also serve to limit the potential for overlooking of the appellant's property and any associated loss of privacy.

9.3.5 Whilst I would concede that the building footprint approved under ABP Ref. No. PL04.242980 was only intended to be indicative and that 'split' finished

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ground floor levels of 54.00m and 56.5m were also 'approved' as part of that application, in my opinion, ABP Ref. No. PL04.242980 only authorised the development of serviced 'sites' and thus the final design details of the proposed dwelling house remain open for consideration in the assessment of the subject application. In this respect, having considered the available information, whilst I would accept that the proposed dwelling house will be located at a higher elevation than was seemingly previously understood by the appellant and that the proposed construction will occur in closer proximity to the appellant's property than was suggested by the 'indicative' building footprint detailed in ABP Ref. No. PL04.242980, I am satisfied that given the specific design of the proposed dwelling house, 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 by way of a loss of privacy.

9.3.6 With regard to the potential for the proposed development to have a detrimental impact on the levels of sunlight and daylight received by the appellant's property, it is my opinion that, given the separation distances involved, in addition to the likelihood that some degree of overshadowing of the appellant's dwelling house could already be attributed to the mature screening along the intervening site boundary, any diminution in daylight / sunlight by reason of overshadowing will be limited and would not warrant a refusal of permission.

9.3.7 On the basis of the foregoing, I am generally satisfied that the proposed development will not have an undue detrimental impact on the residential amenity of the appellant's neighbouring property by reason of overlooking or overshadowing, however, I would have concerns that the proximity of the proposed construction to the appellant's dwelling house, particularly when taken in conjunction with the difference in ground / floor levels between the respective properties, and the adoption of a dormer design in contravention of Condition No. 2 of ABP Ref. No. PL04.242980, could result in the subject proposal having a somewhat overbearing appearance when viewed from the property to the north thereby giving rise to a perceived loss of privacy.

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

9.4.1 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



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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.

### **10.0 RECOMMENDATION**

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

#### **Reasons and Considerations:**

1. The proposed development would, by reason of its dormer design, contravene materially a condition attached to an existing permission for development namely, condition number 2 attached to the permission granted by the Board on the 6<sup>th</sup> day of June, 2014 under appeal reference number PL04.242980.

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

Robert Speer  
Inspectorate

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