



An  
Bord  
Pleanála

## Inspector's Report PL28.247553

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<b>Development</b>	Demolish existing dwelling and construct new dwelling with site access and ancillary works.
<b>Location</b>	Pinewood, Little Orchard, Farranlea Park, Cork.
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	16/36902.
<b>Applicant(s)</b>	Marie Therese O'Sullivan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Two Third Party
<b>Appellant(s)</b>	1. Ray and Patricia O'Mahony 2. Carol and Martin Veiga
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	11 <sup>th</sup> January 2017
<b>Inspector</b>	Fiona Fair.

## 1.0 Site Location and Description

- 1.1. The appeal site (0.038 ha) is located at 'Little Orchard' to the eastern side of Farranlea Park an established residential area, located to the south west of Cork City centre.
- 1.2. The site which comprises a portion of the side garden of a large two storey dwelling known as 'Little Orchard', is a backland site, which is accessed via a narrow private lane from Farranlea Park. The appeal site, currently, hosts a single storey wooden chalet and shed with flat roof.
- 1.3. The host dwelling, 'Little Orchard', is located to the north east of the overall family landholding.
- 1.4. The site is well contained with boundary walls and mature screening to the north and west. The rear gardens of two storey residential dwellings along 'The Orchard', back onto the site from the north and similarly the rear gardens of two storey dwellings along Farranlea Park back onto the site to the west. 'Little Orchard', is located to the east and the extensive garden associated with 'Little Orchard', is located to the south and south east.
- 1.5. It is proposed to demolish the longstanding wooden chalet and replace it with a modern two storey dwelling.

## 2.0 Proposed Development

- 2.1. The proposal comprises:
  - Demolition of existing wooden chalet dwelling 65sq.m
  - Construction of a new two storey three-bedroom dwelling (145.52 sq. m)
  - Access from Farranlea Park via existing Little Orchard access road
  - Connection to existing services and all associated site development

Significant further information was received in the subject case, whereby, the site layout and design of the dwelling was significantly altered.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Following a request for Additional Information with respect to issues of overbearing to the north of the site, issues of overlooking and request for a more sympathetic design, a shadow study, contiguous elevations drawings, landscaping scheme and boundary treatments, planning permission was granted subject to 9 number conditions. Conditions of note include:

Condition 2: requires that the proposed development shall be located as per DWG 1158/025 submitted to, and received by, the planning authority on the 08/09/2016

Condition 3. Requires that a 2m high solid block and capped boundary wall shall be provided along the rear boundary i.e. the northern boundary, and additional mature planting shall be provided along the entire length of this boundary.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planners Report outlines that having regard to the nature, location and context of the site and surrounding area, the policies and objective of the Cork City Development Plan 2015 -2021 and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions that the proposed development would not seriously injure the residential or visual amenity of the area.

Road Design Report: Report states no comments in relation to roads, condition to be attached with respect to appropriate development contribution.

Drainage Report: No objection subject to condition.

### **3.3. Third Party Observations**

A number of objection submitted to the planning authority raises similar concerns to those raised in the third party appeals summarised in detail below.

## 4.0 Planning History

- 4.1.1. Reg. Ref. 12/35249 Permission granted (14/06/2012) for the construction of a part single storey part two storey house on the grounds of existing dwelling. Site is located to the south of the subject appeal site in the front garden of the host dwelling 'Little Orchard'. Extension of duration of permission was sought on 23/12/2016 this is not due to be decided until 27/02/2017. No decision to date is indicated on the Cork City Council website.

## 5.0 Policy Context

- 5.1.1. Sustainable Residential Development in Urban Areas, 2009  
5.1.2. Quality Housing for Sustainable Communities, 2007  
5.1.3. Development Plan

The site is governed by the policies and provisions contained in the Cork City Development Plan 2015-2021.

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

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The issues raised within both third party appeals from Ray and Patricia O'Mahony, The Elms, The Orchard, Farranlea Park and Carol and Martin Veiga, 4, The Orchard, Farranlea Park have been collated under the following headings:

Overlooking of adjoining Property

- 22m between opposing first floor windows not observed

- Two windows on the north west elevation at second floor will overlook 4 The Orchard Farranlea Park's main living space.
- Separation distance from windows proposed under Reg. ref. 16/36902 from windows permitted under Reg. ref. 12/35249 is approx. 3.8m
- Overlooking of dwelling permitted under Reg. ref. 12/35249

#### Overshadowing of adjoining Property

- Amendments proposed to the boundary wall will increase overshadowing
- Realignment of the site will cause adverse effect to houses to the north
- Negative impact to natural light entering kitchen / living space of south facing dwellings along The Orchard.

#### Proximity of the proposed dwelling to the northern boundary

- Negative Visual Impact when view from dwellings in The Orchard
- Overbearing impact from two storey element
- High boundary wall and proposals for screening inappropriate when taken in conjunction with scale and massing of the proposed house.
- Overshadowing of rear gardens to the north will result

#### Overdevelopment

- No regard is had to permitted development Reg. Ref. 12/35249 (live permission) on foot of which a part single storey part two storey dwelling has been granted planning permission.
- Very tight infill site,
- There is an approx. separation distance of 9.46m between the proposed dwelling and the established residence on site
- Concern with respect to overlooking and inadequate residential amenity afforded to permitted dwelling to the south
- Reduction in private open space of existing and permitted development on site
- Minimum private open space proposed

- Contrary to established pattern of development in the area
- Negative residential amenity afforded to future occupants

#### Two Storey Nature / Bulk and Mass of the Proposed dwelling

- Further information request to reduce the height of the dwelling to single storey was not complied with.
- Scale is intrusive and does not respect the building styles in the area

#### Privacy and security

- Failure to indicate boundary treatment between the existing shed and dwelling to the north.
- Failure to indicate the impact of the proposed dwelling on adjoining existing and proposed dwellings, in particular dwelling permitted on foot of Reg. Ref. 12/35249

## 6.2. Applicant Response

6.2.1. A response was submitted by Bertie Pope & Associates on behalf of the applicant Marie Therese O'Sullivan, it is summarised as follows:

- The revised proposal submitted by way of additional information adequately addresses the issues raised.
- Revised proposal for private open space, suitable orientation and design.
- The proposal was revised as follows: reduced foot print, reduced height, relocation of two storey element from the northern boundary, omission of windows at first floor, revised elevational treatment, together with screen boundary treatment and screen planting.
- A single storey dwelling would increase the footprint and restrict options
- The proposed development adequately responds to the unfounded concerns of the third party objectors.
- No windows at first floor facing north, to avoid overlooking.

- The proposed two storey element is 25.4m from the two storey existing dwelling to the north (The Elms) and is angled in such a way to further reduce visual impact and separation of the existing and proposed dwellings.
- The separation distance from the proposed dwelling to the development permitted under Reg. Ref. 12/35249 is 6.9m and not 2.9m as stated by the appellants.
- The juxtaposition of houses on site allow adequate private and spatial separation and provides a visually interesting site configuration.
- The pattern of development in the area comprises a mix of two storey and single storey.
- Many adjoining gardens have been redeveloped for residential use.
- Proposal replaces an existing dwelling which is no longer suitable as accommodation.
- The site boundary wall to the north is well screened with a 2m high screen wall and proposed planting.
- Protection of a view from a residential property is not a legitimate planning consideration.
- No basis of objection in terms of infringement of privacy, inadequate separation, overshadowing of property, compatibility with pattern of existing development, design, scale materials and suitability of this development, on a fully serviced site with easy access to all amenities and public utility services.
- Dwelling is for the daughter of the owners of the overall site

### **6.3. Planning Authority Response**

- Response received no further comments forthcoming.

## 7.0 Assessment

7.1. I consider the key issues in determining this appeal are as follows:

- **Principle of the Development on the Site**
- **Design, layout and visual amenity**
- **Residential Amenity**
- **Undesirable Precedent**
- **Appropriate Assessment**

### 7.2. Principle of the Development on the Site

The appeal site is located within an area zoned with the objective ZO 4 'Residential, Local Services and Institutional Uses' with the objective 'to protect and provide for residential uses, local services, institutional uses and civic uses having regard to employment policies outlined in Chapter 3' of the Cork City Development Plan 2015-2021.

The proposed development, for a replacement / infill dwelling in the side garden of a large two storey dwelling on its own grounds, is compatible in principle with this zoning objective, subject to compliance with development management criteria set out in the Development Plan.

### 7.3. Design, layout and visual amenity

Section 16.59 of the Cork City Development Plan 2015-2021 relating to 'Infill Housing' is of relevance in the subject case. It sets out that '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'. It is stated that '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.'

Cognisance is had that the subject appeal proposal seeks to replace an existing longstanding wooden chalet, in use as a dwelling, which it would appear does not have the benefit of planning permission, however, in the opinion of the planning authority is deemed statute barred from any enforcement proceedings.

The site is somewhat restricted in terms of its limited area, configuration and its location and proximity to adjoining dwellings to its north. Two dwellings, in particular, directly due north of the appeal site, in 'The Orchard' have restricted rear gardens areas directly abutting the subject appeal site. I note for the attention of the Board that planning permission was granted (14/06/2012) on foot of Reg. Ref.12/35249 for the construction of a part single storey part two storey house to the south east of the subject appeal site on the overall landholding. Extension of duration of this permission was sought on 23/12/2016 this is not due to be decided until 27/02/2017. No decision to date is indicated on the Cork City Council website.

By way of additional information, the applicant redesigned and relocated the proposed dwelling, omitting high level windows from the north west elevation and relocating it south towards the front of the site. The proposal for a two storey dwelling has been retained despite the further information request by the planning authority that revised plans for a single storey dwelling be submitted to significantly reduce the overbearing effect of the proposal on neighbouring properties while retaining the minimum requirements for private open space as per the Cork City Development Plan.

The revised site layout plan submitted indicates that private open space in excess of Development Plan requirements can be accommodated to the north west of the site. However, the dwelling while relocated, reoriented and redesigned is still (in part) two storey in height and still (in part) located right up against the northern party boundary. The proposed two storey element of the dwelling is located due south of

established dormer / single storey dwellings with restricted rear gardens. It is wholly unacceptable that the two storey element is proposed within 5m of the northern / rear boundary of long established, small, south facing, private rear gardens. The size, scale and mass of the proposed two storey dwelling located within 1.5m (single storey element) and 5m (two storey element) of the restricted rear gardens of established dwelling along The Orchard would give rise to overbearing, overshadowing and unacceptable loss of light to the private amenity space serving these dwellings. I note the shadow diagrammed submitted and it is clear that overshadowing would impact upon the appellant's property to the north, in particular, 'The Elms' and 'Coolfree' 4 The Orchard, I consider same significant in terms of the compact nature of this urban environment and therefore unacceptable.

The plans and drawings submitted do not indicate the part two storey, part single storey dwelling permitted on foot of Reg. Ref.12/35249. From a site layout plan submitted by the planning authority, upon request from the Board, it is clear that the dwelling permitted to the south east of the subject appeal site would be in close proximity of the proposed structure. From an online search it appears that the two storey element of the permitted adjoining dwelling is located directly adjoining its northern boundary and therefore approx. within 7 – 8m of the two storey element of the proposed dwelling. Given that an extension of duration of permission has been sought in respect of the dwelling permitted on foot of Reg. Ref.12/35249 and this permission relates to lands owned by the applicant's family, and outlined in blue on submitted documentation, I consider that it is inappropriate that precise details of this dwelling have not been clearly detailed in the subject proposal. It is unclear from the information submitted, what impact, an additional dwelling at this location would have upon the dwelling permitted on foot of Reg. Ref.12/35249. I therefore am of the opinion that the proposal in its current form is unacceptable.

The development by reason of its restricted rear garden depth and proximity to site boundaries would constitute over development by reason of overbearing and overshadowing of properties to its north. It would, if permitted, set an undesirable precedent and depreciate the value of properties to its north along The Orchard.

With respect to visual amenity, the appeal site is backland and therefore not visible from Farranlea Park or The Orchard surrounding public roads. However, it is highly visible from the rear gardens of dwellings on Farranlea Park and The Orchard. The

two-storey development, would by reason of proximity, height and scale represent a visually intrusive form of development when viewed from the rear gardens of adjoining dwellings. As discussed above, the visual impact, or residential amenity impact of the proposed dwelling with the dwelling permitted on foot of Reg. Ref.12/35249 is unclear given the lack of information / details submitted.

#### **7.4. Residential Amenity**

I am of the opinion that neighbouring houses would not be overlooked but would be overshadowed and suffer overbearing by the proposed house. I note the location of the site due south of 'The Elms' and 'Coolfree' 4 The Orchard. Given the limited rear garden depths, orientation, layout and design proposed, with a two storey element of the new dwelling located within 5m of the northern party boundary, any shadows cast would fall to the southern facing restricted gardens and rear private amenity space of dwelling to the north.

I have sympathy for the concerns of the occupiers of the 'The Elms' and 'Coolfree' 4 The Orchard with respect to the degree of overbearing which would result by replacement of a small chalet structure, which does not have the benefit of planning permission, with a two storey structure some 7m in height. Having carried out a site visit and observed the restricted depth of rear gardens of dwellings in The Orchard I am of the opinion the degree of overbearing would be significant and material such that permission should be refused for the two storey dwelling proposed in the subject instance.

#### **7.5. Undesirable Precedent**

I am of the opinion; the proposed development constitutes overdevelopment of a restricted plot. The proposal, if permitted, would be injurious to the amenities of surrounding properties and set an undesirable precedent for other similar future developments.

#### **7.6. Appropriate Assessment (AA)**

The closest European Sites are the Cork Harbour SPA (site code 004030) and the Great Island Chanel cSAC (site code 001058).

The planning report on file concludes that appropriate assessment is not required.

Overall I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## **8.0 Recommendation**

I recommend that planning permission should be refused for the reason and consideration as set out below.

## **9.0 Reasons and Considerations**

Having regard to the established and permitted pattern of development in the vicinity and the scale and height of the proposed two-storey dwelling, it is considered that the development would seriously injure the amenities of the adjacent property, along 'The Orchard', to the north, by means of overbearing impact. The two-storey development would by reason of proximity, height and scale represent a visually intrusive form of development which, being located due south, would result in both loss of light and overshadowing of the adjoining rear gardens. The proposed development would therefore seriously injure the residential amenity enjoyed by dwellings along 'The Orchard' and depreciate the value of said property and, as such, would be contrary to the proper planning and development of the area.

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Fiona Fair  
Planning Inspector  
23/01/2017