



An  
Bord  
Pleanála

## Inspector's Report PL.04.247828

---

<b>Development</b>	2 Houses.
<b>Location</b>	Pinewood, Elm Park, Sarsfield Road, Doughcloyne, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	16/06557
<b>Applicant(s)</b>	Fitzgibbon Bros Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	As above
<b>Observer(s)</b>	Abbey Twohig, John Joe Murphy, Margaret Hickey
<b>Date of Site Inspection</b>	9 <sup>th</sup> March 2017
<b>Inspector</b>	Kenneth Moloney

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.2. Planning Authority Reports .....	5
3.3. Third Party Observations .....	6
4.0 Planning History.....	7
5.0 Policy Context.....	7
5.1. Development Plan.....	7
6.0 NATIONAL GUIDANCE .....	7
7.0 Appeal .....	8
8.0 Responses.....	12
9.0 Assessment .....	14
10.0 Recommendation .....	18
11.0 Reasons and Considerations .....	18

## **1.0 Site Location and Description**

- 1.1. The subject site is located within an established housing estate and is currently used as a passive green space.
- 1.2. The green space is adjoined by car parking on one side and a gable elevation of a two-storey house on the other side.
- 1.3. The character of the existing housing estate is defined by two-storey suburban dwellings consisting of both detached, semi-detached and terraced housing of a traditional format with front and rear gardens.
- 1.4. The size of the appeal site is 0.026 ha (0.06 acres) and the shape of the appeal site is approximately square. The gradient of the appeal site falls gently towards the public road.
- 1.5. The northern boundary of the appeal site adjoins a rear garden of a detached house and the eastern boundary of the site adjoins the rear garden of a terraced house.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for the construction of a two number dwelling houses and associated site works. The houses consist of a pair of semi-detached houses.
- 2.2. The proposed floor plan comprises of living space at ground floor level and two bedrooms and a study at first floor level and a single bedroom at second floor level.
- 2.3. The proposed development provides for two car parking spaces to the front of each house.
- 2.4. The proposed development also includes the provision of private open space to the rear of the proposed houses.

### 3.0 Planning Authority Decision

3.1. Cork County Council decided to **refuse** planning permission for the following reasons;

1. The proposed development would be located on lands that have been used as public open space serving this part of the housing estate for approximately 30 years. The lands have been open to the public for recreational use for a significant period of time and the use of land for such purposes has been established in this regard. It is considered that the proposed development would result in the loss of an existing amenity and as such would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the design, scale and position of the proposed development and its proximity to adjoining properties to the north and east, it is considered that the proposed development would result in an unacceptable level of overshadowing and overlooking and would also have an unacceptably overbearing effect on the adjoining properties. The proposed development would set an undesirable precedent for further similar development and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development represents overdevelopment of the site having regard to the limited level of private amenity space proposed for each house. The limited length of the proposed rear gardens also results in poorly positioned houses which would have a poor visual relationship with the adjoining dwellings and would seriously injure the visual and residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

3.2.1. The main issues raised in the Executive Planner's report and the SEP's report are as follows;

### Executive Planner

- The estate has been taken in charge.
- The planning history in relation to S83/621 includes condition no. 2 which is relevant to the appeal site. This condition required the omission of houses no. 19 and 20 and the requirement to replace them with a shop.
- House no. 19 and 20 were omitted however the shop was never constructed.
- The proposed development is in character with the local area.
- The Area Engineer has no objections to the parking arrangements.
- Some internal floor areas are inadequate.
- The private open space provision is insufficient.
- The windows on the rear elevation at first floor level are 5.5m from the third party boundary / private gardens to the north. This is unacceptable having regard to current standards.
- It is considered that the house adjacent to no. 21 which has a bedroom window facing east could overlook the adjoining residential amenities of no. 21.
- It is considered that the proposed dwellings would have an overbearing impact on no. 18 Clifton given separation distance. It is considered that the proposed houses would overshadow the houses to the north.
- There is a public footpath that adjoins the north of the site however this has been blocked off. There might be a public right of way into the site.
- The proposed bay windows are out of character with the local area.
- The height of the proposed dwellings and its relationship with adjoining dwellings is unclear.
- There is a loss of public open space and visual amenity for the estate.

- A small strip of land to the south of house no. 1 to the west and the appeal site are the only two amenity spaces north of the spine road.
- It is considered that a retail unit in the estate would not be viable given the proximity of local shopping centres.
- The appeal site has been used as open space for some 30 years.
- In summary the proposed development is overdevelopment and would be overbearing and has inadequate private open space provision. In addition, the proposal would amount to a loss of public open space for existing residents.

#### Senior Executive Planner

- The subject land is zoned 'existing built up area'.
- Although the site was never formally earmarked for open space it was maintained and used for public open space in the last 30 years. There are similar small areas of public open space throughout the estate.
- A grant of permission would amount to a loss of public open space and set an undesirable precedent.
- Potential negative impacts on existing amenities include overlooking, overshadowing and overbearing.

3.2.2. Area Engineer; - No objections subject to conditions.

3.2.3. Estates Primary; - No objections subject to conditions.

3.2.4. There is a submission from Cork Airport who state that the Planning Authority should have regard to Policy TM7-1 of the Cork County Development Plan.

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

There are five third party submissions and the issues raised have been noted and considered.

## 4.0 Planning History

- There is no recent planning history.

## 5.0 Policy Context

### 5.1. Development Plan

The operational Development Plan is the Cork County Development Plan, 2014 – 2020.

The operational Local Area Plan is the Carrigaline Electoral Local Area Plan, 2011. The appeal site is zoned 'Existing Build-up Area'.

## 6.0 NATIONAL GUIDANCE

### 6.1. Sustainable Residential Development in Urban Areas, 2009

The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout.

**Sustainable Urban Housing: Design Standards for New Apartments, Dec. 2015**

These guidelines provide recommended guidance for internal design standards, storage areas and communal facilities, private open spaces and balconies, overall design issues and recommended minimum floor areas and standards.

## 7.0 Appeal

7.1. The following is the summary of a first party appeal submitted by Bill Mullins, Architect, on behalf of Fitzgibbon Bros;

- It is contended that the appeal site is privately owned by the applicant.
- It is contended that the local authority was negligent in not carrying out due diligence in taking in charge the subject site.
- The development potential of the subject site may now be compromised.
- It is submitted that an amenity space in a different location within the housing estate has been subsumed within private rear gardens. This is a loss of the public open space.

### Refusal Reason no. 1

- It is submitted that the site's owner received permission for a shop on the site in 1983.
- The applicant's who are the rightful owners of the subject site were never asked for permission to use the site as public open space.
- There is an established public open space provision located on the southern side of the spine road.
- The appeal site was never open space nor was it intended to function as open space.
- It is inconsistent to believe that the development of the privately owned subject site would amount to a reduction in public open space.
- It is submitted that the Cork County Council could not properly take in charge ground that did not fall within the scope of Section 180(4) of the Planning and Development Act, 2000.



- It is contended that the proposed development is in keeping with the existing development in the local area.
- Fitzgibbon Bros adhered to all the conditions of the original permission including all public open space requirements.
- It is considered that the subject site is most unsuitable for public open space provision as it is located adjacent to car parking which is dangerous for children playing and secondly the location of the open space is situated adjacent to the spine road which carries all the traffic and is a danger to children playing.
- It is being decided not to fence the site as it would be unsightly.

#### Refusal Reason no. 2

- It is submitted that it is commonplace in urban developments like Elm Park that overlooking into neighbouring rear gardens is inevitable from upper floor windows which are bedrooms.
- It is submitted that there are numerous examples of high buildings causing overshadowing, reduction of sunlight and daylight, reduction of privacy and obstruction of skyline.
- The submission includes examples with photographs where large scale developments are located adjacent to established two-storey houses. One such example is Copley Street in Cork City.
- There is also an example in Kileens, Co. Cork where overlooking is commonplace in an established suburban development.
- A final example is in Larkfield, Ballyown Road, Lucan, Co. Dublin where gable bedroom windows look towards existing gable bedroom windows.
- It is submitted that the eastern gable window of the proposed eastern house is commonplace and will only look towards an existing gable elevation of no. 21 Pinewood.
- It is noted that two of the houses have first floor windows on their rear elevations. It is proposed to relocate these windows to the gable elevations.

- It is contended that the existing overlooking of no. 18 Clifton due to the two bedroom windows in no. 17 Clifton is greater than the potential overlooking caused by the proposed development to no. 18.
- It is submitted that total privacy from adjoining houses is non-existent in a suburban context.

### Refusal Reason no. 3

- The site is essentially an undeveloped infill site.
- The site has the potential to provide two houses where there is a strong demand for housing.
- The proposed development conforms with Section 17.38 of the Cork City Council County Development Plan.
- It is submitted that the proposed development is consistent with both Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, May 2009, and Residential Density Guidelines for Planning Authorities, 1999.
- It is submitted that it is not uncommon for infill sites to have modest rear gardens.
- It is not accepted that the proposed development would detract from the visual impact of adjoining dwellings. It is contended that the proposed development would complement and enhance the street scape and would complete the development of the last remaining plot.

7.2. The following is the summary of an observation submitted by **Abbey Twohig** of 22 Pinewood;

- The shape and size of the site is different to the original site in the 1980's.
- The site is much smaller than the site shown on the maps in the 1980's.
- It is submitted that the proposed development would result in an alleyway immediately north of the appeal site which in turn will create an area for anti-social behaviour.

- The proposed houses are small and the proposed bay windows are inconsistent with the character of the area.
- It is submitted that the back gardens are small and will receive very little daylight or sunlight. Should the rear space be concrete then it will be covered in moss and algae.
- It is submitted that the green space on the opposite side of the spine road is not very accessible due to the nature of the busy spine road and a deep culvert between the road and the green space.

7.3. The following is the summary of an observation submitted by **John Joe Murphy** of 18 Clifton;

- It is contended that the proposal will overshadow the observer's rear garden and result in a significant loss of light.
- In the original planning application, the two proposed houses, i.e. 19 and 20, were marked to stop flush with the end wall of the observer's house.
- In the proposed new development, the two houses are marked to finish halfway along the side wall of the observer's house.
- The line of the garden wall is significantly different from the original proposal.
- The net result is that the proposed dwelling will be in very close proximity to the sidewall and garden wall of the observer's house. This will amount to a loss of light and overshadowing.
- The proposed development will reduce the level of privacy currently available.
- It is submitted that in the local area the current separation distance of rear elevations to boundary walls is approximately 9 – 11 metres. The proposed development is set back approximately 5.5m from the rear boundary wall. This will affect existing privacy levels.

- The close proximity plus the fact of having four first floor windows and 6 no. velux windows will result in a lack of privacy. The proposed house also has velux roof windows which is unprecedented in the local area.
- There are concerns with the pathway that runs along the north of the site. It is considered that this may invite anti-social behaviour.
- The observer has experienced anti-social behaviour on two previous occasions.
- It is submitted that the green space on the opposite side of the public road is not accessible due to the busy spine road and also a deep culvert adjoining the spine road.
- It is submitted that retaining the existing green space would be far safer for children.
- It is submitted that the current car park is full and it is submitted that extra parking requirements would add to the problem.
- The proposal will result in increased densities and will devalue the houses due to negative impact in terms of amenity and overall look of the estate.

7.4. The following is the summary of an observation submitted by **Margaret Hickey** 21 Pinewood;

- There are insufficient car parking spaces in the estate.
- There will be 3 no. windows overlooking the observers side pathway and this will therefore interfere with their privacy.
- The proposal will devalue houses in the local area.

## 8.0 Responses

8.1. The following is the summary of a response submitted by the applicant's agent;

- It is submitted that some level of overshadowing in this existing estate is inevitable.

- It is submitted that there are established precedents of high buildings causing very significant overshadowing, reduction of sunlight and daylight, reduction of privacy and obstruction of the skyline. This includes Copley Street in Cork City where high rise development adjoins traditional two-storey housing.
- It is submitted that there is a ground floor differential between the ground floor of the proposed units and the established house at no. 18 Clifton. The proposed ground floor of the proposed houses is lower than the ground floor of no. 18 Clifton.
- It is submitted that should overlooking from the first floor rear window be a concern then these windows can be relocated to the gable elevations.
- It is submitted that the first floor bathroom windows are finished in opaque glazing to prevent overlooking.
- It is submitted that the velux roof windows can be conditioned to be fitted not less than 1.7m from the floor level.
- It is submitted that overlooking and privacy issues have been addressed.
- It is submitted that there will be no concerns in relation to anti-social behaviour as the existing pathway to the rear of the site will be closed off.
- A former public open space area was subsumed into rear gardens. There was no financial benefit to the owner for this transfer of land to private gardens.
- It is submitted that a feature of the existing housing estate is that there is shared car parking provision. This was a condition of the permission by Cork County Council. This is shared car parking to the west of the existing site. It is therefore considered that there is adequate car parking provision within the estate.
- It is noted that Cork County Council has no concerns that the construction of a shop on the subject site would amount to overdevelopment of the site. Therefore, the construction of two houses on the appeal site would not amount to overdevelopment of the site. It is submitted that Elm Park is a medium density development.

- It is considered that a significant provision of public open space is provided in the existing housing estate.
- The proposed development would improve the appearance of the housing estate and add a monetary value to the existing adjoining houses.

8.2. The following is the summary of a second response submitted by the applicant's agent;

- The Board are requested to consider the layout and orientation of no. 13 Larkfield Way which is a 3-storey house in relation to no. 11 and no. 9 Larkfield Way. This is supported by submitted photographs.
- The northern gable elevation of no. 13 Larkfield is 7 metres high.
- There is a 1.5m distance between no. 13 Larkfield and the rear garden walls of no. 9 and no. 11 Larkfield Way.
- It is submitted that the rear elevations of the proposed houses are set back approximately 5.5m from the garden boundary wall of the adjoining house no. 18 Larkfield. Whereas the gable elevation of no. 13 Larkfield is set back 1.5m from the rear garden walls of no. 11 and no. 9 Larkfield.

## 9.0 **Assessment**

- Principle of Development
- Access
- Impact on Established Residential Amenities
- Appropriate Assessment

### 9.1. **Principle of Development**

On the basis of the information on the file it is evident that the appeal site has a previous planning permission for a shop unit. Condition no. 2 of L.A. Ref. 83/621 stated that two houses, i.e. no. 19 and 20, shall be omitted and replaced with a shop

unit which would have a maximum floor area of 500 sq. metres. However, the shop was never constructed and the subject site was used as a public open space for the last 20 – 30 years.

As such the subject site was used as an incidental open space and I would consider on the basis of condition no. 2 of L.A. Ref. 83/621 that the site in question has development potential, notwithstanding its established use.

I would acknowledge that the subject site has been used as public open space for a considerable time period however this public open space is additional to the permitted public open space in L.A. Ref. 83/621. The proposed development would not result in a reduction of public open space that was permitted as part of L.A. Ref. 83/621 and therefore I would consider that it's removal would not be contrary to L.A. Ref. 83/621. I would accept that the development of the site would reduce the amenity value of this site however it is my view based on the planning history that the appeal site has development potential. I therefore would not concur with the local authority's first refusal reason.

## 9.2. **Impact on Established Residential Amenities**

The proposed development provides for a pair of semi-detached houses. The proposed houses are two-storey in height with an attic conversion. In terms of assessing the impact of the proposed development on adjoining residential amenities I would consider overlooking, overshadowing and overbearing impacts are key issues.

The proposed houses have rear gardens however the short depth of these rear gardens is a concern as this reduces the separation distance of the proposed houses to established houses i.e. no. 18 Clifton. The general required separation distance for rear elevations of houses in urban and suburban areas is 22 metres and this therefore requires 11-metre-deep rear gardens for back to back houses. However, this standard is flexible subject to innovative design. The orientation of the

proposed houses in relation to no. 18 Clifton is not back to back. The proposed houses have a maximum rear garden depth of 5.5 metres which is relatively short for a two-storey house. The rear elevation of the proposed house has a bedroom window at first floor level and 3 no. velux windows serving a bedroom in the converted attic. There is also a bathroom window situated on the first floor rear elevation however the glazing for this window will be finished in opaque glazing.

Therefore, I would consider that the proposed development would result in overlooking into the rear garden of no. 18 Clifton and would also result in perceived overlooking. This level of overlooking, in my view, would reduce the established level of privacy and residential amenities in general and would therefore seriously injure the established residential amenities in the local area.

The proposed two-storey houses, having regard to their height of approximately 9.2 metres above ground level, the separation distance from the existing properties and their positioning south of existing properties will have an overshadowing impact on no. 18 Clifton and no. 21 Pinewood. This therefore will further reduce established residential amenities.

The proposed development also includes a gable window for the bedrooms on the third floor. I would consider that this window would result in overlooking in an eastern direction. However, I would also consider that this overlooking could be eliminated by an alternative design solution such as a high level windows or obscure glazed window. However, these alternative designs would reduce the overall level of residential amenity for future occupants. The proposed development would provide adequate car parking provision and the proposed development addresses concerns in relation to anti-social behaviour as it is proposed to eliminate the existing pathway to the north of the appeal site.



Overall given the proximity of the proposed houses to the established residential properties I would consider that the proposed development would be seriously injurious to established residential amenities.

### 9.3. **Residential Amenities for Future Occupants**

In terms of residential amenities that the proposed house would offer future occupants I would consider a number of amenity factors are important in this consideration and they include;

- private open space provision
- floor areas
- aspects / orientations.

I would note that the County Development Plan does not set out any minimum private open space requirements for houses. The proposed private open space provision is approximately 28 sq. metres per garden which for a suburban rear garden is relatively small. This level of private open space provision is substandard in relation to the established pattern of development in the local area. I would also note that the quality of the private open space provision would be poor given its orientation which is north facing and is therefore likely to be overshadowed for a large part of the day.

As such it is my view that the private open space provision for the proposed two-storey houses are inadequate and would offer a poor level of residential amenity for future occupants.

In general terms the floor areas of the proposed houses and the aspects / orientations are acceptable.

#### 9.4. **Appropriate Assessment**

It is intended that the proposed houses will be connected to public water mains and public water mains. Having regard to the nature and scale of the development proposed, the nature of the receiving environment and the likely effluents arising from the proposed development I recommend that no appropriate assessment issues arise.

#### 10.0 **Recommendation**

10.1. I have read the submissions on the file, visited the site, had due regard to the Local Area Plan, and all other matters arising. I recommend that planning permission be refused for the reasons set out below.

#### 11.0 **Reasons and Considerations**

1. The proposed residential development by virtue of inadequate private open space provision would offer a poor form of residential amenity for future occupants and would set an undesirable precedent for similar type of development in the area. The proposed development would therefore set an undesirable precedent in the area, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed houses which are situated on a restricted site and by reason of its layout and orientation would overlook established residential amenities situated to the north and east of the appeal site, would be visually obtrusive, and would seriously injure the residential amenities of adjoining properties. As such the proposal would detract from the amenities of adjoining properties, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The

proposed development would, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

---

Kenneth Moloney  
Planning Inspector

11<sup>th</sup> April 2017