



An
Bord
Pleanála

Inspector's Report PL28.248202

Development

The demolition of an existing single storey dwelling and associated ancillary structures to rear, the construction of a new two-storey dwelling and single storey shed to rear, the relocation of vehicular entrance and all associated site works.

Location

23 Dundanion Road, Ballintemple, Cork.

Planning Authority

Cork City Council

Planning Authority Reg. Ref.

16/37235

Applicant(s)

John O'Grady & Aileen Russell

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Decision

Appellant(s)

John & Gretta O'Keeffe

Observer(s)

None

Date of Site Inspection

31st May, 2017

Inspector

Robert Speer

1.0 Site Location and Description

The proposed development site is located within an established residential area, approximately 3.2km east of Cork City Centre, along Dundanion Road in the outer suburb of Ballintemple. The surrounding area is characterised by a variety of low density housing developments, which are typified by conventional plot layouts providing for front and rear garden areas in addition to private off-street parking / driveways, with the more elevated lands further east along Dundanion Road accommodating single storey detached bungalow-type housing whilst the lower lands to the northwest are occupied by a combination of detached and semi-detached two-storey houses. Notably, the subject site is situated at the point along the southern side of Dundanion Road which represents the transition between the single-storey and two-storey construction with the neighbouring property to the east (No. 25 No. Dundanion Road) comprising a single storey bungalow comparable to that presently on the application site whilst the dwelling to the northwest (No. 21 Dundanion Road) comprises a two-storey, semi-detached property. The site itself has a stated site area of 0.0608 hectares, is rectangular in shape, and is presently occupied by a detached, single storey dwelling house in addition to a series of outbuildings and other ancillary structures.

2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of an existing single storey detached dwelling house (floor area: 106.4m²) and a number of associated ancillary structures followed by the construction of a replacement detached two-storey dwelling house with a stated floor area of 241m² and an overall ridge height of 7.842m. The overall design of the proposed dwelling house is somewhat conventional with a principle rectangular plan and single storey annexes to the front and rear of same although efforts have been made to incorporate more contemporary features into the elevational treatment. External finishes will include an artificial slate roof, a painted smooth render, natural stone facing and a zinc canopy. It is also proposed to erect a flat-roofed shed (floor area: 15m²) to the rear of the dwelling house in the south-western corner of the site.

In addition to the foregoing, it is proposed to relocate the existing vehicular entrance further east to a more central position within the site frontage. Furthermore, proposals to provide a new pedestrian access in the north-western corner of the site were received by the Planning Authority by way of unsolicited further information on 3rd February, 2017. Water supply and sewerage services are available from the public mains.

N.B. It would appear that a Certification of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, accompanied the planning application.

3.0 Planning Authority Decision

3.1. Decision

On 24th February, 2017 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 12 No. conditions which can be summarised as follows:

Condition No. 1 – Refers to the submitted plans and particulars.

Condition No. 2 – Requires the dwelling house to be occupied as a single residential unit.

Condition No. 3 – Refers to waste management during the proposed demolition and construction works.

Condition No. 4 – Refers to the provision of suitable waste / bin storage etc. for the proposed dwelling house.

Condition No. 5 – Refers to the control of noise emissions and working hours during the construction of the proposed development.

Condition No. 6 – Refers to construction management.

Condition No. 7 – Prohibits the driveway width from exceeding 3m and requires any gates / doors to be recessed and / or incapable of opening outwards whilst surface water is also prohibited from flowing onto the public road / footpath.

Condition No. 8 – Refers to the dishing of the public footpath outside the proposed vehicular entrance.

Condition No. 9 - Refers to foul and surface water drainage.

Condition No. 10 – Requires all stormwater runoff to be retained on site with the proposals for same to be agreed with the Planning Authority.

Condition No. 11 – Requires the soakaway to be located a minimum of 5m from any structure or site boundary.

Condition No. 12 - Refers to the payment of a development contribution in the amount of €6,843.39.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

States that the proposed development accords with the relevant land use zoning objective and is acceptable in principle, subject to consideration of the demolition works pursuant to Section 16.78 of the Development Plan which sets out the circumstances when the demolition of existing dwellings will be resisted. The report proceeds to note the applicants' comments with regard to the overall condition of the dwelling house proposed for demolition, including the assertion that it is not financially viable to renovate and extend the property, and subsequently concludes that the existing dwelling is of no particular architectural merit (notwithstanding that it shares a design theme and common features with those dwellings further east) and that there is no objection to the design of the proposed replacement dwelling. It is further stated that the submitted design reflects some of the characteristics of the existing dwelling house in terms of its architectural form and complies with '*Quality Housing for Sustainable Communities; Best Practice Guidance for Delivering Homes, Sustaining Communities*'. With regard to the potential impact on the residential amenity of neighbouring properties, the report states that the submitted proposal will not give rise to overlooking and that constructional / demolition impacts are not considered to be issues to be addressed under current planning legislation.

3.2.2. Other Technical Reports:

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

Roads Design: No objection, subject to conditions.

Drainage Division: No objection, subject to conditions.

3.3. **Prescribed Bodies**

Irish Water: No objection, subject to conditions.

3.4. **Third Party Observations**

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

- Interference with / loss of view available from neighbouring property.
- Devaluation of property.
- Detrimental impact on residential amenity by reason of overlooking and overshadowing.
- The overbearing impact of the proposed construction relative to the objector's property.
- Concerns with regard to the level of noise, dust, traffic and general disruption / disturbance etc. arising during the development works.
- The potential for damage to third party property during construction of the proposed development.

4.0 **Planning History**

On Site:

None.

On Adjacent Sites:

None.

5.0 Policy Context

5.1. National and Regional Policy:

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.

5.2. Development Plan

Cork City Development Plan, 2015-2021:-

Land Use Zoning:

The proposed development site is 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.

Other Relevant Sections / Policies:

Chapter 6: Residential Strategy:

Objective 6.1: Residential Strategic Objectives:

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

Chapter 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 16.59: 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.

Part D: Alterations to Existing Dwellings

Section 16.78: Demolition of Existing Residential Dwellings:

National policy and City Council policy is to increase the city's population and to increase the general density of development throughout the city to achieve this. This has brought pressure for the intensification of existing areas of the city and for the demolition of existing lower density dwellings. This is of concern for three main reasons:

- Many buildings predate suburban development and make a very significant contribution to the overall character and distinctiveness of an area, though often of modest architectural significance in themselves. This would include farmhouses, artisan cottages and other building types;
- Buildings are of architectural merit (either in their own right or as part of a group, whether or not they are protected on a statutory basis);
- It generally results in the loss of larger housing stock;
- Demolition, rather than re-use, may not be energy efficient as it represents a loss of the embodied energy in the existing building.

5.3. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

- The proposed development will interfere with the views presently available from the appellants' neighbouring property.
- The proposed development will have a detrimental impact on the level of daylight / natural light received by the dining room window of the appellants' dwelling house.
- The proposed dwelling house will overlook the appellants' neighbouring garden area with an associated loss of privacy / residential amenity.
- The proposed development will result in the degradation and devaluation of the appellant's property.
- There are concerns with regard to the potential for the proposed development to give rise to increased noise levels (including during the construction phase).

6.2. Applicant's Response

- The accompanying drawing (Drg. No. 16028-02-2020-01) details the footprint of the proposed development overlain on the existing buildings scheduled for demolition and in this respect it is submitted that any impact on the levels of daylight received by adjacent properties consequent on the proposed development will not be significantly greater than that arising from the existing ancillary structures on site.
- It is understood that the dining room window referenced by the appellants is at the side of the house and as such is not considered a principal facade. Furthermore, it is submitted that given the presence of the existing boundary hedging on site, views towards Beaumont are not possible.
- The proposed development will involve significant investment by the applicants for use as a single family home and it is difficult to see how this will

have a negative impact on adjacent property values when compared to the deteriorating state of the existing dwelling on site.

- Condition No. 5 of the notification of the decision to grant permission places clear obligations on the applicant as regards noise emissions and working hours and these are considered to be sufficient to control any anti-social impact arising from the proposed development.

6.3. **Planning Authority's Response**

No further comments.

6.4. **Observations**

None.

7.0 **Assessment**

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

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

These are assessed as follows:

7.1. **The Principle of the Proposed Development:**

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 primarily 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. However, it is of particular importance to note that the subject proposal involves the replacement of an existing dilapidated dwelling house with a newly constructed modern residence. Therefore, in light of the foregoing, including the established use of the site for residential purposes, in my opinion, the proposed redevelopment of the subject site and the construction of a replacement dwelling house is acceptable in principle.

7.2. Overall Design and Layout / Visual Impact:

Having regard to the site location at the transition between the single storey housing to the east and the two-storey semi-detached property to the northwest, and noting that the overall design of the proposed replacement dwelling house incorporates elements derived from the surrounding pattern of development, such as the hipped roof construction, and as it respects the established building line and ridge height of the adjacent two-storey residence, in my opinion, the design of the subject proposal is acceptable and will not detract from the character or streetscape of the area.

7.3. Impact on Residential Amenity:

Concerns have been raised in the grounds of appeal that the proposed development will have a detrimental impact on the residential amenity of the appellants' property primarily by reason of overshadowing and overlooking with an associated loss of privacy. In this respect particular reference has been made to the potential for the proposed dwelling house to overlook the rear garden area of the neighbouring residence in addition to the possibility that the new two-storey construction will diminish the amount of sunlight / daylight received by a window within the western elevation of the appellants' dwelling house which serves a dining area.

Having conducted a site inspection, and following a review of the submitted plans and particulars, in my opinion, it is clear that the design of the proposed dwelling house has taken cognisance of the need to avoid any direct overlooking of the appellants' dwelling house. In this respect it should be noted that the only first floor window which will be directly orientated towards the neighbouring property will serve a bathroom area and thus will be finished in obscure glazing. In addition, the height of this proposed bathroom window over floor level will serve to reduce the potential

for any overlooking. In relation to the appellants' concerns as regards the privacy of their rear garden area, given the site context in an urban area, I am inclined to suggest that any overlooking of this space consequent on the proposed development will be within acceptable limits.

In assessing the potential impact as regards a loss of light or overshadowing, it is necessary to consider a number of factors including the height of the structures concerned, their orientation, the separation distances involved, and their positioning relative to each another. Accordingly, having considered the submitted information, in my opinion, it is unlikely that the proposed construction, by reason of its overall height, positioning and proximity to the neighbouring dwelling house, will give rise to such a diminution in the amount of direct sunlight / daylight received by the dining room of the appellants' property as to warrant a refusal of permission. In this respect I would advise the Board that the subject site is situated in an urban area where some degree of overshadowing would be not unexpected whilst the amount of daylight received by the dining room window in question is already limited to some extent as a result of the appellants' own actions with regard to the installation of a car port alongside same.

Concerns have also been raised that the proposed development will have a detrimental impact on residential amenity by reason of the obstruction of views available from within the appellants' property. Having considered the available information, in my opinion, it is of the utmost relevance to note that the views available from the appellants' property over the surrounding area are not of public interest nor are they expressly identified as views worthy of preservation in the relevant Development Plan. They are essentially views enjoyed by a private individual from private property. A private individual does not have a right to a view and whilst a particular view from a property is desirable, it is not definitive nor is it a legal entitlement and, therefore, I am of the opinion that the proposed development would not seriously injure the amenities of the appellants' property (or that of any other properties in the vicinity) simply by interfering with their view of the surrounding area.

In respect of the concerns raised in the grounds of appeal that the proposed development will have a visually overbearing influence / impact on the appellants' property, having regard to the site location in a built-up area, the surrounding pattern

of development, the size and scale of the subject proposal, and the positioning of the proposed construction relative to the appellants' dwelling house, I am inclined to conclude that the subject proposal will not give rise to such an overbearing appearance / influence as to significantly impact on the level of residential amenity presently enjoyed by the occupants of the appellants' property.

In relation to the potential for any trespass or interference with the appellants' property during construction of the proposed development, I am inclined to suggest that such issues would amount to civil matters for resolution between the parties concerned. I would also draw the Board's attention 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*'.

With regard to the potential constructional impact of the proposed development on the residential amenities of neighbouring property, whilst I would acknowledge that the subject site is located within an established residential area and that any construction works are likely to result in some degree of disturbance / inconvenience, given the limited scale of the development proposed, and as any constructional impacts will be of an interim nature, I am inclined to conclude that such matters can be satisfactorily mitigated by way of condition.

Therefore, on the basis of the foregoing, I am satisfied that the overall development proposal will not give rise to any significant impact on the residential amenity of the appellants' property.

7.4. Traffic Implications:

The proposed development includes for the repositioning of the existing vehicular entrance serving the property to a more centrally located position alongside the site frontage. In my opinion, this aspect of the proposed works will not give rise to any additional traffic impact and is acceptable.

7.5. Appropriate Assessment:

From a review of the available mapping, including the Cork City Development Plan, 2015, the Cork County Development Plan, 2014 and the data maps available from the website of the National Parks and Wildlife Service, it is apparent that although the proposed development site is not located within any Natura 2000 designation, it

is situated approximately 900m north of the Cork Harbour Special Protection Area (Site Code: 04030) which has been designated as such due to its ecological interest on the basis that it contains a high number of species (and wetlands) listed for protection under the E.U. Birds Directive. In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 10 of the Cork City Development Plan, to protect, enhance and conserve designated areas of natural heritage, biodiversity and protected species, and I would refer the Board in particular to Objective 10.7: *'Designated Areas and Protected Species'* of the Plan which states that development projects and plans likely to have significant effects on European Sites (either individually or in combination with other plans or projects) will be subjected to an appropriate assessment and will not be permitted unless they comply with Article 6 of the Habitats Directive. In effect, it is apparent from the foregoing provisions that any development likely to have a serious adverse effect on a Natura 2000 site will not normally be permitted and that any development proposal in the vicinity of, or affecting in any way, a designated site should be accompanied by such sufficient information as to show how the proposal will impact on the designated site. Therefore, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.

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

Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, and to the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 3rd day of February, 2017, 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

5. The proposed vehicular site entrance shall not exceed more than 3.0 metres in width. Gates at the entrance shall be designed so that they are not capable of being opened outwards. The footpath and kerb shall be dished at the location of the proposed entrance in accordance with the requirements of the planning authority.

Reason: In the interest of pedestrian and traffic safety.

6. All bathroom, WC and en-suite windows shall be fitted and maintained with permanently obscured glazing.

Reason: In the interest of residential amenity

7. 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/demolition waste.

Reason: In the interests of public safety and residential amenity

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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.

9. The proposed shed shall not be used for human habitation or for the keeping of pigs, poultry or pigeons, ponies or horses or for any other purpose other than a purpose incidental to the enjoyment of the house.

Reason: In the interest of protecting the residential amenities of neighbouring property.

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.

Robert Speer
Planning Inspector

12th June, 2017