



An  
Bord  
Pleanála

## Inspector's Report PL04.248775

### Development

To construct a small residential development of 2 No. two storey detached dwelling houses, provision for 4 car parking spaces and all associated site works, including new site entrance area with set down, footpath, drainage and landscaping.

### Location

Scart, Castletreasure, Douglas, Co. Cork.

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

17/04300

### Applicant(s)

Oliver Kenny

### Type of Application

Permission

### Planning Authority Decision

Grant subject to conditions

### Type of Appeal

Third Party v. Decision

### Appellant(s)

Liam Beechinor

### Observer(s)

None.

**Date of Site Inspection**

6<sup>th</sup> October, 2017

**Inspector**

Robert Speer

## 1.0 Site Location and Description

The proposed development site is located in Douglas, Co. Cork, approximately 2.1km south of the N40 Southern Ring Road and 1.7km southwest of the clubhouse in Douglas Golf Club, in the predominantly residential area of Castletreasure which forms an outer suburb on the southernmost fringe of the built-up area of the Cork City environs. The surrounding area is characterised by a variety of conventionally designed detached, semi-detached and terraced suburban housing schemes, although the Castletreasure Grove housing estate to the immediate south and west of the application site represents a slight divergence from the prevailing pattern of suburban development given the predominance of terraced units within same. In contrast to the foregoing, the lands to the immediate north of the proposed development site are occupied by a pair of detached single storey bungalows which are positioned perpendicularly to the main roadway along an east-west axis on individual plots of land that are comparable in size to the subject site. The site itself has a stated site area of 0.0918193 hectares, is a parallelogram in shape, and presently comprises a vacant parcel of land occupied by 2 No. small galvanised sheds. It is positioned between a single-storey bungalow to the immediate north and a service road within the Castletreasure Grove housing estate to the south. It is bounded by a capped and plastered blockwork wall to the south and west and by mature hedging to the north whilst the roadside (eastern) site boundary comprises a combination of mature trees and hedging in addition to a section of wall and a sheet metal gate. The site topography rises gently on travelling southwards over the adjacent lands to the immediate north.

## 2.0 Proposed Development

The proposed development consists of the construction 2 No. identical detached two-storey dwelling houses (with an additional attic conversion) each with a stated floor area of 201.69m<sup>2</sup> and an overall ridge height of 10.338m. The overall design of the proposed dwelling houses is conventional and is based on a principle rectangular plan with a single storey annex / return to the rear of same. The dwellings will have an asymmetrical front elevation whilst the external finishes will include 'thrutone' roof slates, PVC windows, and what would appear to be a selected plaster render

(although this is not entirely clear from the submitted plans and particulars). Notably, the proposed 40 degrees roof pitch will result in a significant proportion of roof area relative to the rising walls of the proposed dwelling houses.

Access to the proposed development will be achieved via a new shared entrance arrangement from the adjacent public road (Local Road No. L-2464) to the immediate east, however, this aspect of the proposal was revised in response to a request for further information in that the proposed access was narrowed in width to only permit a single lane of traffic from entering / exiting the site at any given time. Water and sewerage services are available from the public mains.

*N.B.* The proposed development site is located on lands zoned as 'Existing Built Up Area' and the subject application has not been accompanied by 'Certificate of Exemption' from the provisions of Part V pursuant to Section 97 of the Planning and Development Act, 2000, as amended.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following the receipt of a response to a request for further information, on 1<sup>st</sup> June, 2017 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 external finishes, landscaping, boundary treatment, construction management, entrance details and infrastructural works.

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

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

An initial report stated that the proposed development was acceptable in principle having regard to the relevant land use zoning objective, the site location within the development boundary of the Cork City Southern Environs, and as the lands in question effectively formed an infill site between existing housing. With regard to the design and siting of the proposed development, it was further stated that this was acceptable given the site context, subject to confirmation that adequate provision

had been made for on site parking and turning space. It was also held that the overall design of the proposal would avoid any overlooking of neighbouring property and that the positioning / orientation of the proposed dwelling relative to the residence located on the adjacent lands to the immediate north (in addition to the steep fall in ground levels) would ensure no undue overshadowing of that property. This report subsequently recommended that further information should be sought in respect of the adequacy of the available sightlines, the reconfiguration of the proposed access arrangements, drainage at the site entrance, and the provision of adequate on site parking and turning facilities.

Following the receipt of a response to a request for further information, a final report was prepared which concluded that the amended site layout and entrance design etc. were acceptable before recommending a grant of permission subject to conditions.

### 3.2.2. Other Technical Reports:

*Estates Primary:* An initial report recommended that confirmation should be sought as regards the provision of a suitable turning space within the curtilage of each site so as to avoid cars from having to reverse onto the public road. It was also suggested that the Area Engineer should review the shared / combined entrance arrangement onto the public road and the set-down area proposed outside of the entrance gates. This report subsequently concluded by recommending a series of conditions to be attached to any decision to grant permission.

Following the receipt of a response to a request for further information, a further report was prepared which stated that the contents of the earlier report generally continued to apply. It was also noted that the revised proposals included for the provision of suitable parking and turning spaces within the curtilage of each site and that the Area Engineer should review the revised entrance arrangements.

*Area Engineer:* Recommended that further information should be sought with regard to the achievement of 90m sightlines from the proposed entrance arrangement in both directions given the 'rural' nature of the site location. In addition, it was indicated that there were difficulties with the proposed 'set-down' area as this could result in haphazard traffic movements along a very busy stretch of roadway and also allow increased volumes of surface water to flow onto the public road / footpath. Therefore,

it was recommended that the applicant be requested to remove the set-down area and provide a combined entrance.

*Engineering:* Following the receipt of a response to a request for further information, a report was prepared which stated that the revised entrance arrangement was satisfactory and that the available sightlines appeared to be adequate. This report subsequently concluded by stating that there was no objection to the proposed development, subject to conditions.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

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

- Concerns with regard to the overall height, bulk and scale of the proposed development given its proximity to the neighbouring dwelling house.
- Detrimental impact on the residential amenity of the neighbouring property by reason of a loss of light and overshadowing.
- The overall size and bulk of the proposed dwelling houses would be out of character with the surrounding pattern of development, with particular reference to the single storey properties to the north and east of the application site.

## 4.0 **Planning History**

### On Site:

PA Ref. No. 077555. Application by Oliver Keaney for permission for a residential development of 4 No. two storey terraced dwellings and associated site works. This application was withdrawn.

PA Ref. No. 0710765. Application by Oliver Keaney for permission for a residential development of 4 No. two storey terraced dwelling houses, provision for 8 No. car parking spaces and associated site works. This application was withdrawn.

PA Ref. No. 0712218. Application by Oliver Keaney for permission for 4 No. two storey terrace dwelling houses, provision for 8 No. car parking spaces and associated site works. This application was withdrawn.

On Adjacent Sites:

None.

On Sites in the Immediate Vicinity:

PA Ref. No. 03456. Was granted on 8<sup>th</sup> May, 2003 permitting Donal and Maureen Ahern permission for an extension to front and side of dwelling at Greenbanks, Castletreasure, Co. Cork.

PA Ref. No. 047858. Was granted on 27<sup>th</sup> January, 2005 permitting Niall Costigan permission for alterations and extensions to dwelling house at Castletreasure, Donnybrook Hill, Co. Cork.

PA Ref. No. 165995. Was granted on 16<sup>th</sup> November, 2016 permitting Patrick Murphy permission for the construction of a domestic single storey garage together with all associated works at No. 5 The Green, Bracken Court, Donnybrook, Castletreasure, Douglas, Co. Cork.

PA Ref. No. 175280. Was granted on 14<sup>th</sup> August, 2017 permitting Patrick Murphy permission for the construction of a ground floor extension to rear of dwelling, alterations to both sides of dwelling and construction of a domestic garage and all associated site works at No. 5 The Green, Bracken Court, Donnybrook, Castletreasure, Douglas, Co. Cork.

## 5.0 Policy Context

### 5.1. Development Plan

Cork County Development Plan, 2014:

Chapter 2: Core Strategy:

Section 2.3: *The Network of Settlements*

Section 2.4: *Settlement Strategy*

Chapter 3: Housing:

Section 3.3: *Delivering Sustainable Residential Communities*

*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 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:*

*Chapter 14: Zoning and Land Use:*

*Section 14.3: Land Use Zoning Categories: Existing Built-Up Area*

*ZU 3-1: Existing Built Up Areas:*

Normally encourage through the Local Area Plan's development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built up areas will be resisted.

**Ballincollig Carrigaline Municipal District Local Area Plan, 2017:**

Land Use Zoning:

The proposed development site is located on lands zoned as 'Existing Built Up Area'.

Other Relevant Sections / Policies:

Section 1: *Introduction*

Section 2: *Local Area Plan Strategy*

Section 3: *Main Towns and Key Assets:*

Section 3.5: *Cork City South Environs*

**5.2. Natural Heritage Designations**

None.

**6.0 The Appeal**

**6.1. Grounds of Appeal**

- The subject proposal clearly involves the construction of 2 No. three-storey dwelling houses, however, the description of the proposed development as set out in the public notices refers to the construction of two-storey dwellings. Therefore, it is submitted that the description of the proposed development as contained in the public notices is both inaccurate and misleading.
- Whilst there are a number of three-storey structures within the adjacent housing estate, these properties are buttressed by two-storey dwelling houses. The prevailing pattern of development in the surrounding area predominantly comprises two-storey dwelling houses with a ridge height of c. 7.8m, however, the proposed units will have a ridge height of 10.19m.

Furthermore, whilst the existing estate housing tends to be 9.4m deep, the depth of the proposed dwellings will measure 11.2m which serves to increase the overall height of their gable elevations. Therefore, it is submitted that the proposed development is not in keeping with the surrounding pattern of development.

- The site layout plan indicates that the finished floor level of the existing housing within the adjacent residential estate will be 2.4m higher than that of the proposed dwelling houses. Furthermore, whilst the submitted drawings detail a cover level for the existing sewer, the invert level of the sewer has not been shown and, therefore, it is queried whether or not the proposed development will be able to connect into the existing mains sewerage system. This is of particular concern given the distance between the existing manhole and the proposed development.
- There are concerns that the submitted drawings show the finished floor level of the proposed dwellings as being lower than that of the appellant's neighbouring residence despite the siting of the latter down-gradient of the application site. The achievement of any such levels would necessitate the carrying out of significant excavation works across the entirety of the application site which could potentially undermine the stability of the existing boundary walls and serve as an excuse to raise the finished floor level of the proposed housing upon the commencement of development. Similarly, attempts may be made to raise the finished floor level in the event the building contractor were to encounter rock on site.
- Contextual elevations / sections (annotated with the relevant floor levels and ridge heights etc.) are required to adequately assess the relationship of the proposed development relative to existing properties.
- Section 7.2 of the Cork County Development Plan requires the submission of daylight and shadow projection diagrams in instances where the development proposed will be significantly higher than the existing adjacent buildings, however, no such information was provided with the subject application. Accordingly, it is considered that inadequate regard has been had to the potential impact of the proposed development on the residential amenity of

the appellant's dwelling house, with specific reference to the kitchen, bathroom and a bedroom area.

- The subject proposal does not accord with the proper planning and development of the area and would not appear to have achieved a proper balance between the protection of the appellant's residential amenity and the established character of the surrounding area.

## 6.2. Applicant's Response

- In its decision to grant permission for the subject application the Planning Authority stated the following:

*'Having regard to the established pattern of development within the vicinity of the site and to its location, it is considered that subject to compliance with the conditions set out in the Second Schedule attached herein, the proposed development would not seriously injure the amenities or adjoining property or of the area and would be in accordance with the proper planning and sustainable development of the area'.*

- It is clear that the Planning Authority gave due consideration to all aspects of the application, the site, the occupants of neighbouring properties, and the wider neighbourhood.

## 6.3. Planning Authority's Response

None.

## 6.4. Observations

None.

## 6.5. Further Responses

None.

## 7.0 Assessment

7.1. 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
- Appropriate assessment
- Other issues

These are assessed as follows:

### 7.2. **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 located in an area zoned as *'Existing Built Up Area'* in the Ballincollig Carrigaline Municipal District Local Area Plan, 2017 with the stated land use zoning objective to *'Normally encourage through the Local Area Plans development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built up areas will be resisted'*. Accordingly, given that the surrounding area is primarily residential in character it is clear that the proposed development accords with the aforementioned land use zoning objective. Furthermore, I would suggest that the proposed development can be considered to comprise a potential infill site situated within an established residential area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection of the amenities and the privacy of

adjoining dwellings, the protection of established character, and the need to provide residential infill.

Therefore, having considered the available information, with particular reference to the site context and the relevant policy provisions of both the Ballincollig Carrigaline Municipal District Local Area Plan, 2017 and the Cork County Development Plan, 2014, 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.

### **7.3. Overall Design and Layout / Visual Impact:**

The proposed development site occupies an infill position located between an existing single-storey bungalow on the adjacent lands to the immediate north and the conventionally designed Castletreasure Grove housing estate to the south (and west) which is predominantly characterised by two storey terraced housing. By way of further clarifying the site context, it is of relevance to note that the subject site comprises an elongated parcel of land that extends along an east-west axis which is comparable in size and shape to the neighbouring housing plots occupied by a pair of detached single storey bungalows to the north and that it also fronts onto the adjacent public roadway to the east (Local Road No. L-2464). Furthermore, it should be noted that the subject proposal involves the development of 2 No. detached dwelling houses with a shared access arrangement onto Local Road No. L-2464 and thus the proposed units could be construed as representing a continuation of the existing stepped pattern of roadside development evinced by the adjacent bungalow dwelling houses to the immediate north. Therefore, following a review of the available information, and having conducted a site inspection, in my opinion, the specifics of the site context in this instance would lend credence to the position that particular consideration should be given to the relationship of the proposed development with the neighbouring housing fronting onto Local Road No. L-2464 as opposed to the conventional suburban housing scheme within Castletreasure Grove.

With regard to the overall design and layout of the submitted proposal, which consists of the construction 2 No. identical detached two-storey dwelling houses (with an additional attic conversion) on contiguous plots fronting onto the public road,

whilst I would accept that the subject site could comfortably accommodate the provision of 2 No. suitably designed dwelling houses of an appropriate size and scale, given the site context, I would have serious reservations as regards the overall design of the proposed units in this instance. In this regard I would draw the Board's attention to the overall height of the construction proposed when compared to adjacent roadside development and the proximity of same to both the northern site boundary and the existing dwelling house on the neighbouring lands. For comparison purposes it is notable that each of the proposed dwelling houses will have an overall ridge height of 10.338m whereas the neighbouring property to the immediate north only extends to 4.33m in height (*N.B.* The proposed housing will effectively have same ridge level as the adjacent terraced housing within the Castletreasure Grove estate at 99.84m and 99.85m respectively despite the latter units having been constructed on more elevated lands). Indeed, notwithstanding the proposal to excavate into the site in order to reduce the finished ground floor level of the proposed housing to below that of the neighbouring dwelling house (which is actually situated on lower-lying lands), it is apparent that the proposed units will nevertheless extend to a considerable height over the adjacent property. Therefore, it is my opinion that the overall design and height of the proposed dwellings, particularly when combined with the proximity of Dwelling House No. 2 to the northern site boundary, will have an unacceptably overbearing impact on the visual amenity of the neighbouring single storey bungalow to the immediate north.

In addition to the foregoing, I am also inclined to suggest that the utilisation of a 40 degrees roof pitch within the proposed housing in order to provide a further level of habitable 'attic' accommodation results in such a significant extent of roof area relative to the rising walls of the proposed dwelling houses as to be disproportionate and out of character with the prevailing pattern of development in the surrounding area, particularly given the site's roadside location.

#### 7.4. **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 appellant's neighbouring property to the immediate north by reason of overshadowing and in this regard particular reference has been made to the overall height of the proposed dwelling houses and the difference in levels between the respective sites.

Having reviewed the submitted information, whilst I would acknowledge that there is an enclosed car port area located between the southernmost elevation of the appellant's dwelling house and the site boundary shared with the application site, I would nevertheless have serious reservations that the overall height of the proposed dwellings, the proximity of Dwelling House No. 2 to the northern site boundary, and the positioning of the proposed development immediately south of the neighbouring property, would serve to significantly limit the levels of natural daylight and / or direct sunlight received by the southern elevation (and rooflight) of the appellant's dwelling house. Accordingly, whilst the subject application has not been accompanied by a shadow projection analysis, I am inclined to conclude that the proposed development is likely to have a negative impact on the residential amenity of the adjacent property to the immediate north by reason of overshadowing.

In relation to the appellant's concerns as regards the potential for damage to boundary walls, 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*'.

7.5. **Appropriate Assessment:**

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

7.6. **Other Issues:**

**Procedural Issues:**

It would appear that the appellant has sought to question the validity of the subject application on the basis that the description of the proposed development as set out in the application documentation, including the public notices, does not accurately reflect the works proposed and thus fails to comply with the statutory requirements of the Planning and Development Regulations, 2001, as amended. In my opinion, such



procedural matters are generally the responsibility of the Planning Authority which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements and, therefore, I do not propose to comment in depth on this matter other than to state that the Planning Authority's actions have not infringed the appellants' right to appeal. However, having reviewed the plans and particulars provided with the planning application, I would concede that the description of the subject proposal as comprising the construction of 'two-storey' dwelling houses could be held to be somewhat misleading given that each of the proposed units will incorporate three 'floors' of accommodation due to the inclusion of an 'attic' level within the roofspace. Therefore, in the event the Board decides to grant permission for the subject application it may wish to consider whether or not it would be appropriate to require the publication of revised public notices.

*Servicing Arrangements:*

In reference to the appellant's concerns as regards the viability / feasibility of connecting the proposed dwelling houses to public mains services, with specific reference to the sewerage network, I would advise the Board that neither the Area Engineer nor the Engineering Department of the Local Authority have raised any issue with regard to same and that such matters would typically be addressed by way of condition in the event of a grant of permission.

## **8.0 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:

## **9.0 Reasons and Considerations**

1. Having regard to the site location and the pattern of development in the area, it is considered that the proposed development, by reason of its overall design, height and positioning on site relative to the adjacent property to the immediate north, would result in an overbearing form of development which would overshadow the adjoining property, thereby seriously injuring the

residential amenities of the occupants of this property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Robert Speer  
Planning Inspector

19<sup>th</sup> October, 2017