



An
Bord
Pleanála

Inspector's Report ABP-300952-18

Development	The construction of 2 two-storey detached dwelling houses with access from Model Farm Road via the existing entrance to "The Beeches" and all associated site works.
Location	"The Beeches", Model Farm Road, Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	17/37543
Applicant(s)	Veronica & Tony Canty
Type of Application	Permission
Planning Authority Decision	Grant, subject to 14 conditions
Type of Appeal	Third party -v- Decision
Appellant(s)	Eileen McCarthy
Observer(s)	None
Date of Site Inspection	30 th May 2018
Inspector	Hugh D. Morrison

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Applicant Response	7
6.3. Planning Authority Response	7
6.4. Observations	7
6.5. Further Responses.....	7
7.0 Assessment.....	8
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13
10.0 Conditions	13

1.0 Site Location and Description

- 1.1. The site forms the rear portion of a residential property known as “The Beeches”. This property lies to the west of Dennehy’s Cross and on the northern side of Model Farm Road (R608) in the western suburbs of Cork City. It presently accommodates an established two-storey detached dwelling house, “The Beeches”, set within extensive grounds. The property is accompanied on either side by other established residential properties and its rear portion is surrounded to the north, east, and west by the following residential properties, which occupy back land locations: “Dunrovan”, “Robinscourt”, and “Rusheen”. Access to the property is via an entrance off Model Farm Road.
- 1.2. The site itself is of rectangular shape and it extends over an area of 0.19 hectares. This site is presently in use as a rear garden, which is laid out on upper and lower levels. The former level is closest to the dwelling house on the property and it accommodates several outbuildings along its northern and eastern edges. The latter level is simply laid out as a lawn. The site is surrounded by continuous rows of trees, which on the eastern and western boundaries lie predominantly on the neighbours’ side of these boundaries. The former are deciduous trees and the latter are coniferous ones). (Coniferous trees on the remaining northern boundary lie within the applicants’ site).

2.0 Proposed Development

- 2.1. The proposal would entail the construction of 2 two-storey detached dwelling houses, which would be orientated on east/west axis. These dwelling houses would be of the same design and one would be sited on the upper level of the existing rear garden and one on the lower level. Each of their footprints would be virtually square and their designs would incorporate circular and square bay windows at ground and first floor levels to their principal elevations, single storey family rooms to their southern south-facing side elevations, and pyramid shaped roofs. Four-bedroomed accommodation would be provided over a floorspace of 268.38 sqm, to give a total floorspace for the proposal of 536.76 sqm.

2.2. The proposed dwelling houses would be served by an extension to the existing driveway, which would run along the eastern boundary of the site. Access would be via the existing entrance and via the existing driveway and its proposed extension.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted subject to 14 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was requested concerning submission of a tree survey, cross sections, and window modifications.

3.2.2. Other Technical Reports:

- Roads: Advise that the proposed means of access would not be capable of being “taken in charge” and so a legally incorporated management company should be put in place for its future maintenance.
- Environment: No objection, subject to conditions.
- Drainage: No objection, subject to conditions.
- Irish Water: Standard observations.

4.0 Planning History

- 09/34128: Construction of a single dwelling house: incomplete application.
- 13/35742: Construction of a single dwelling house: withdrawn.
- 14/36041: Construction of a single dwelling house: deemed to be withdrawn.

5.0 Policy Context

5.1. Development Plan

Under the Cork City Development Plan 2015 – 2021 (CDP), the site is shown as lying within an area that is the subject of the zoning objective Z04, “To protect and provide for residential uses, local services, institutional and civic uses.” Chapter 16 of the CDP sets out standards for residential development.

5.2. Natural Heritage Designations

Cork Harbour SPA (site code 004030)

Douglas River Estuary pNHA (site code 001046)

Great Island Channel SAC and pNHA (site codes in each case 001058)

6.0 The Appeal

6.1. Grounds of Appeal

- Attention is drawn to Paragraph 16.58 of the CDP and several of the criteria set out therein with respect to dwelling houses in gardens, i.e. compatibility of design and scale, residential amenity, and boundary treatments. These criteria would not be met by the proposal.
- Attention is drawn to a refusal issued under PL28.210128 for a comparable proposal and to the planning history of the site, which includes a request under 14/36041 to re-site further south on this site a single dwelling house from the siting now proposed for the more northerly of the two proposed dwelling houses.
- While the more southerly of the proposed dwelling houses would have a coherent relationship with the building lines of the adjacent dwelling houses to the east and to the west, known as “Robinscourt” and “Rusheen”, the northerly one would fail in this respect.

- A difference of almost 7m would arise between the floor level of the appellant's dwelling house, "Dunrovan", and that of the proposed northern dwelling house. Consequently, even if trees along the northern boundary of the site survive, the latter dwelling house would have an overbearing relationship with the former.
- The appellant commissioned an arboricultural review of the site and its proposed development. This review makes the following points:
 - Footpaths, driveways, and services that would be needed in connection with the northern dwelling house would intrude destructively into the root protection areas of trees on the northern and eastern boundaries.
 - The original design process does not appear to have been informed by topographical and arboricultural surveys.
 - The further information requested referred to not only a tree survey but to an impact analysis informed by such a survey. However, this analysis was not forthcoming.
 - The future management of the Leyland Cypress along the northern boundary of the site would be impossible to manage in the restricted space that would be available post-development.
 - An opportunity to redesign the proposal was missed under further information. Instead a cross section of the proposed driveway was submitted and yet this driveway would affect the roots of adjacent trees along the eastern boundary.
 - The proposal would result in the early death/demise of the majority of existing boundary trees.
- The case planner relies upon the retention of the Leyland Cypress along the northern boundary of the site to screen the northern dwelling house. However, this tree type is normally deemed to be the least appropriate tree species for incorporation in residential development. In these circumstances, this dwelling house should be omitted and the boundary in question should be replanted with an appropriate native species instead.

6.2. Applicant Response

The applicants begin by reiterating their view that there are legal impediments to the Board proceeding with the current appeal, which they consider to be invalid.

Without prejudice to the above cited view, they respond to the above cited grounds of appeal as follows:

- The proposal would accord with relevant CDP policies, as it would be compatible with adjacent residential properties and the maintenance of their amenities.
- The landscaped treatment of the northern boundary is well-established and its retention would ensure that the amenities of the appellant's property would be safeguarded.
- Only the appellant of all the neighbours to the site has raised objection.
- The planning precedents cited overlook that of "Vailima", which was permitted under application 17/37688, and the appellant's own property, the site of which was formed from back gardens and the dwelling house upon which does not relate coherently to the building lines of adjacent dwelling houses.
- The applicants remain satisfied with their own landscaped consultant's advice. Any future cutting back or felling of the Leyland Cypress would be undertaken in agreement with the appellant, who could in any event provide supplementary tree planting on her side of the northern boundary.

6.3. Planning Authority Response

No further comments.

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal in the light of the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Land use and conservation,
- (iii) Amenity,
- (iv) Access,
- (v) Water, and
- (vi) AA.

(i) Legalities

7.2. The applicants draw attention to correspondence that they have had with the Board concerning the legality of the current appeal. Colleagues have advised the applicants that in their view this appeal is legal and so the Board is in a position to assess and determine the current application/appeal. The applicants do not agree with this view and so, in responding to the appellant's grounds of appeal, they have done so on a "without prejudice" basis.

(ii) Land use and conservation

7.3. Under the CDP, the site is zoned Z04, residential, local services and institutional uses. Under this zone, which covers much of the City's suburbs, a central objective is "the provision and protection of residential uses and residential amenity." Thus, the envisaged residential after use of the site would be acceptable in principle.

7.4. The existing dwelling house on the applicant's property is identified as being of architectural interest, under the National Inventory of Architectural Heritage (NIAH). The rating attached to this interest is "regional" and the accompanying appraisal states that "This house is an attractive example of early twentieth-century domestic architecture. The survival of early windows and leaded glass door add much to its character and charm."

- 7.5. The aforementioned dwelling house is not listed in the CDP's RPS. Under the current proposal, this dwelling house would be retained, along with its existing front, western side and the initial portion of the rear garden, i.e. not only the land between the rear elevation of the dwelling house and a stone wall, which encloses the upper level of the rear garden, but the most southerly portion of this garden, to a depth of 6.5m, too. Thus, the separation distance between this elevation and the two storey portion of the nearest proposed dwelling house would be c. 27m. The new boundary across the upper level would be denoted by means of a 2m high privet hedge and it would be accompanied by tree planting.
- 7.6. While the existing dwelling house is not a protected structure, its inclusion in the NIAH signals that it is of conservation interest. The setting of this dwelling house would be respected insofar as the said stone wall would be retained and the said separation distance would achieve sufficient clearance to ensure that the proposed new-build would not impinge unduly.
- 7.7. I conclude that the proposal would be acceptable in land use terms and its layout would be sufficiently respectful of the immediate setting of the existing dwelling house, which is of conservation interest.

(iii) Amenity

- 7.8. The proposed dwelling houses would be designed to a generous specification of room size and they would be accompanied by side and rear gardens of adequate size. Accordingly, the proposal would afford, in these quantifiable terms, a satisfactory standard of amenity to future residents.
- 7.9. The proposed dwelling houses would be sited beside-one-another with their front and rear elevations aligning and facing, variously, east and west. (Habitable room openings would be predominantly in these elevations). While these sitings would not exhibit any clear relationship with the siting of adjacent dwelling houses to the east and to the west, i.e. "Robinscourt" and "Rusheen", they in turn do not exhibit coherent building lines.
- 7.10. The site, which is composed of upper and lower levels, is surrounded to the north, east, and west by continuous rows of tall mature trees. Consequently, this site has a secluded character. Under the proposal these trees would be retained, on the basis of a landscape management regime that is outlined on drawing no. J-062016-02.

Thus, the opportunity to screen the proposed dwelling houses would be capitalised upon and so their presence would be substantially concealed.

- 7.11. While each of the proposed dwelling houses would be sited centrally within the plots afforded by the upper and lower levels, their respective sizes and, in particular, their depths would mean that their front and rear elevations would be close to the trees along the eastern and western boundaries, i.e. 9.737m and 10m, respectively. However, once canopy spreads and, in the case of the front elevations, bay windows are allowed for, these dimensions would tighten.
- 7.12. The applicants propose to crown raise the beech trees along the eastern boundary by 5m and to reduce the height and width of the *Leylandii* along the western boundary by 20%. These measures would improve the lighting and outlooks from the aforementioned elevations. However, in the former case, I am concerned that the resulting loss of cover from what are deciduous trees would reduce their screening properties, thereby jeopardising neighbour privacy.
- 7.13. The appellant draws attention to the proximity of the extended driveway to the eastern boundary and to the risk that this would pose to tree roots. The applicants responded to this concern, at the further information stage, by specifying a construction methodology that would distribute loads in a lateral direction, thereby mitigating this risk (cf. drawing no. 019-PA2-P03 revision A). However, they did not address the change in levels which would arise in passing to and from the upper and lower levels of the site and which would inevitably entail earthworks to achieve a satisfactory gradient.
- 7.14. The appellant also draws attention to the potential for disruption to roots that would arise from the proposed drainage works under the extended driveway along the eastern boundary.
- 7.15. In the light of the foregoing considerations, I take the view that, in the absence of the proposed crown raising of the beech trees opposite, the proposed dwelling houses should be set back by 2m from the line of their front elevations in order to maintain the envisaged lighting and outlooks to their front elevations. (Such contraction in the depth of these substantial dwelling houses could be absorbed without undermining their overall design integrity). This set back would also afford the opportunity for the extended driveway to be set back from the boundary, along with accompanying

drainage works, thereby reducing the risk to roots, especially in relation to the aforementioned change in levels.

- 7.16. The appellant resides in “Dunrovan”, the dwelling house which is sited on the adjoining plot to the north of the site. Section BB on drawing no. 1107-RFI-001 shows the marked difference in levels between this plot and this site, i.e. over 6m. The resulting slope is laid out as a shrubbery on the appellant’s side of the boundary and the top of it is marked by a continuous row of tall *Leylandii* on the applicants’ side. She questions whether it would be practical once the site is developed to manage these trees and she further questions the appropriateness of these trees, in principle.
- 7.17. Under the proposal a reduction in crown height of 20% is envisaged for the *Leylandii* on the northern boundary of the site. Such a reduction would improve the lighting to “Dunrovan” without affecting its privacy. The applicants have responded to the above critique of this boundary treatment by stating that the *Leylandii* could be replaced in the future on an agreed basis with the appellant.
- 7.18. I, therefore, conclude that the proposal would afford a satisfactory standard of amenity to future residents and it would be compatible with the existing amenities of the area, provided the proposed dwelling houses are reduced in depth from the east by 2m and the extended driveway is re-sited, too, further from the beech trees along the eastern boundary of the site.

(iv) Access

- 7.19. The proposal would utilise the existing entrance to “The Beeches” off Model Farm Road (R608), at a point on this Road where it rises gently to the west and is of straight alignment. This entrance has a recessed gate, forward of which is a vehicle refuge. Sightlines to the east and west are good.
- 7.20. The proposal would also utilise that portion of the existing driveway which parallels the eastern boundary to “The Beeches”. Thereafter, the driveway would be extended into the existing rear garden to serve the 2 proposed dwelling houses. Each of these dwelling houses would be accompanied by 2 car parking spaces, which would be laid out side-by-side to facilitate independent access/egress from the extended driveway. There would also be scope within this driveway to ensure that cars could

turn around and so all movements to and from Model Farm Road would be capable of being undertaken in forward gear.

- 7.21. The Roads advice, cited above under the heading of “Other Technical Reports”, draws attention to the fact that the existing/proposed driveway and accompanying services would not be capable of being “taken-in-charge” and so the need would therefore arise for a management company to be formed to ensure the future maintenance of the same. The draft planning permission reflects this advice insofar as condition 5 refers to the establishment of such a company.
- 7.22. I concur with the said advice and the corresponding need for a condition. I conclude that, subject to such a condition, the proposed 2 dwelling houses would be capable of being accessed satisfactorily and that their parking arrangements would, likewise, be satisfactory.

(v) Water

- 7.23. The proposal would be serviced by the public mains and the public sewer. Irish Water have raised no objection in these respects.
- 7.24. Surface water would discharge to soak pits. Details of these arrangements and so the Drainage advice, cited above under heading of “Other Technical Reports”, requests, appropriately, they be the subject of a condition.
- 7.25. The OPW’s draft PFRA (Figure No. 2019/MAP/38/A) for Cork City shows the site as lying within an area, which is not the subject of any identified flood risk. Likewise, the OPW’s flood maps website does not show any flood events either on the site or within its vicinity.
- 7.26. I, therefore, conclude that the proposal would be capable of being satisfactorily serviced and that the site would not be the subject of any identified flood risk/event.

(vi) AA

- 7.27. The site is an urban one, which is served by the public sewerage system. The proposal would entail the construction of 2 dwelling houses only. Accordingly, I do not consider that any significant effects upon the Conservation Objectives of the Natura 2000 sites in Cork Harbour would arise.
- 7.28. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, no Appropriate

Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. That the proposal be permitted.

9.0 Reasons and Considerations

Having regard to the Cork City Development Plan 2015 – 2021, it is considered that, subject to conditions, the proposal would fulfil the Z04 zoning objective for the site and be consistent with the conservation interest of the existing dwelling house, “The Beeches”. Provided the proposed dwelling houses are reduced in size and their driveways set back from the eastern boundary of the site, they would be compatible with the visual and residential amenities of the area, while affording a satisfactory standard of amenity to future residents. Access and servicing arrangements would be satisfactory, too, and no flooding or Appropriate Assessment issues would arise. The proposal would thus accord 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 14th day of December 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. The proposed development shall be amended as follows:
 - (a) The proposed dwelling houses shall be reduced in depth by setting back their front elevations by 2 metres in a westerly direction.

(b) All consequential changes of (a) for the dwelling houses shall be made explicit.

(c) The extended driveways forward of the two dwelling houses shall be set back by 2 metres from their proposed alignments in a westerly direction. The associated proposed foul sewer layout shall likewise be set back by 2 metres from its proposed route in a westerly direction.

(d) Details of how the driveway to the second dwelling house would negotiate the change in levels between the two proposed house plots shall be made explicit.

(e) The proposed crown raising of the beech trees opposite the proposed dwelling houses shall not proceed. Any crown raising that may be justified on arboricultural grounds shall be made explicit in an amended landscape scheme for the site. This scheme shall be accompanied by a timetable for implementation and a landscape management plan for all new planting.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the attenuation and 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.

5. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.

(b) Only clean, uncontaminated storm water shall be discharged to the soak pits.

Reason: In the interest of public health.

6. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwelling houses without a prior grant of planning permission.

Reason: In the interest of residential amenity.

7. 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.

8. 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.

9. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within

stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

10. The management and maintenance of the proposed shared driveway and associated services following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of this driveway shall be submitted to, and agreed in writing with, the planning authority prior to commencement of occupation of the dwelling houses.

Reason: To provide for the satisfactory future maintenance of this driveway in the interest of residential amenity.

11. The stairwell window in each dwelling house shall be obscure glazed and, thereafter, such glazing shall be retained for the duration of the use of each dwelling house as such.

Reason: In order to safeguard residential amenity.

12. The developer shall pay to the planning authority a financial contribution of €30,862 (thirty thousand eight hundred and sixty-two euro) 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. The application of any indexation required by this condition 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.

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.

Hugh D. Morrison
Planning Inspector

6th June 2018