



An
Bord
Pleanála

Inspector's Report ABP 301088-18

Development	Demolish existing house and associated shed and construct 4 dwellings and all ancillary site works.
Location	Temple Villa, The Crescent, Beaumont, Ballintemple, Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	17/37669
Applicant	Denis O'Brien Developments (Cork) Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	<ol style="list-style-type: none">1. Rosemary & Cyril McSweeney2. Ger & Louise Fahy3. Paul & Valerie Cahill4. W.K. Kenny5. Diarmaid O Cathain & Gearoidin Ui Chathain
Observer(s)	None
Date of Site Inspection	28/06/18
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site, which has a stated area of 0.13 hectares, is located in The Crescent housing estate which is a mature residential area accessed from Beaumont Road in Ballintemple c.4km to the south-east of Cork city centre. The area is characterised by a mix of semi-detached and detached single, dormer and two storey dwellings.

The appeal site is on a corner with road frontage to the east and north. It is roughly rectangular in shape. A single storey dwelling with associated outbuildings is positioned in the southern section of the site with the northern portion laid out as a garden with a number of mature trees. The perimeter of the garden area is now overgrown. Due to the site falls the garden slopes down from south to the north and west. The site is served by entrances both from the north and east. It is bounded by a dormer dwelling to the south (which has 1st floor windows overlooking the site) and the rear gardens of semi-detached dwellings fronting onto Beaumont Drive to the west. A narrow footpath runs along the roadside perimeter of the site.

2.0 Proposed Development

The proposal entails the demolition of the existing dwelling and associated outbuildings, clearance of the site and construction of 3 no. detached two storey dwellings and 1 no. three storey detached dwelling ranging in size from 163 sq.m. to 201.6 sq.m. 3 no. of the dwellings are to have an east-west orientation with the 4th to have a north-south orientation. Each site is to be served by its own access.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 20 conditions including:

Condition 5: 1st floor windows in the flank elevations of houses 1 to 3 to have frosted or obscured glazing and opening sections to be restricted to top hung pivot.

Condition 6: Revised proposals to be submitted to mitigate potential overlooking from 1st floor window in the western elevation of house 4.

Condition 7: The flat roofs over part of the ground floor of all dwellings shall not be used as balconies or roof gardens and shall not be accessible.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner in his report does not consider the existing dwelling to be of particular architectural merit as to warrant its retention. Whilst the density of 31 is outside the minimum density range of 35-50 dwellings per hectare, it is not considered to be a concern having regard to its context. The proposed development site is the same length as the combined length of the 4 properties immediately to the west. The assessment of appropriate density is not purely a quantitative process. Site context, existing residential amenities and the need to provide for sustainable residential development are key qualitative considerations. Whilst the dwellings will be located closer to their rear boundaries than the general pattern in the surrounding area it is considered reasonable in a suburban context. The parapet to the flat roofed ground floor rear extension for houses 1 to 3, which will act as a 'privacy wall', will limit overlooking potential. Mitigation measures in the western elevation of House 4 required to address overlooking. A grant of permission subject to 20 conditions recommended.

3.2.2. Other Technical Reports

Road Design notes that the proposed entrances to houses 3 and 4 are 22 metres from the corner which is limiting in terms of visibility. However, as speed and volume of traffic is low and the entrance to house 4 is existing there is no objection provided boundary walls are kept low to ensure maximum visibility.

Environment Waste Management and Control has no objection subject to conditions.

Drainage Division has no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. **Third Party Observations**

Objections to the proposal received by the planning authority raised issues comparable to those set out in the 3rd party appeals summarised in section 6 below.

4.0 **Planning History**

I am not aware of any previous planning applications on the site.

PL28.246329 (TP 15/36668) – permission granted on appeal in 2016 for a dwelling to the side of No.3 The Crescent.

5.0 **Policy Context**

5.1. **Development Plan**

Cork City Development Plan 2015

The site is within area zoned ZO4, the objective for which is to protect and provide for residential uses, local services, institutional uses, and civic uses having regard to employment policies.

Section 16.41 states that within the City minimum residential density in suburban areas should be 35-50 dwellings per hectare.

Policy 16.59 – Infill development

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. 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
- Have an appropriate plot ratio and density for the site

- Adequate amenity is proposed for the development

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

5 no. 3rd Party appeals have been received from

1. Rosemary & Cyril McSweeney
2. Ger & Louise Fahy
3. Paul & Valerie Cahill
4. W.K. Kenny
5. Diarmaid O Cathain & Gearoidin Ui Chathain

The appeals can be summarised as follows:

- The proposal contravenes the policies and objectives of the City Development Plan for infill development. Infill development should complement rather than dominate the established area. It would detract from the character of the area, would not respect the architecture and house design of bungalows/dormer bungalows on the 'inside' of the Crescent and would set an undesirable precedent.
- There is a height difference between the site and the properties to the west and north. The elevation and steep gradient of the hill was not taken into account.
- The height of the dwellings would be dominant. The roof profile would add to their prominence. The height of House 3 will be greater than the others. It is queried whether the 5th bedroom at the 3rd level is necessary. The dwellings would be overbearing.
- The dwellings will adversely impact on the amenities of adjoining property by reason of overlooking and overshadowing.

- The plot ratio and density would be almost 3 times that prevailing in the area. It would constitute overdevelopment of a restricted site.
- The proposed 1.8 metre walls on the rear boundary and common boundaries between houses will appear very prominent. Consent has not been secured from adjoining property owners for the removal of a hedge along the western boundary.
- It is queried how condition 7, prohibiting the use of the flat roofs, is to be enforced.
- The dwellings would be unduly close to their boundaries and appear to be relying on the existing back gardens of the properties on Beaumont Drive.
- Any redevelopment should respect the existing green character of the site and maintain or replace the trees and hedgeline.
- The multiplicity of entrances on a blind, inclined bend will create a traffic hazard. The corner has a history of road accidents and incidents. It does not comply with the technical requirements of DMURS. It will exacerbate traffic levels, on-street parking and congestion on the Crescent.
- The proposal will exacerbate existing water supply and sewerage issues in the area. It will exacerbate flooding.
- The level of open space serving the dwellings is completely at odds with the established pattern of development.
- The development plan provisions for corner/garden sites as set out in paragraph 16.58 should be taking into consideration.
- The proposal would impact on the structural stability of adjoining property. There is a history of subsidence in the area. As a minimum the developer should be required to undertake before and after condition surveys. A risk mitigation plan should be prepared.
- Issues arising during the construction phase should be addressed via meetings between the developer and residents.
- No tree survey was carried out. The proposal will result in the removal of Monkey Puzzle and Copper Beach trees.

- It will negatively impact on the pigeon racing hobby of the appellants in No.28 Beaumont Drive.
- There is no record of the pre-application consultation undertaken.

6.2. Applicant Response

The response by McCutcheon Halley on behalf of the applicant can be summarised as follows:

- The proposal accords with the zoning provisions for the site.
- The City Development Plan recognises the importance of building a mix of smaller scale development and considers infill development essential to making the most sustainable use of existing urban land (section 16.59).
- The design respects the existing character of the area whilst optimising the development potential of the site. Consideration has been given to the design of different dwelling types using a palette of materials such as render, brick, slate and glass which will offer a cohesive and mixed variety to the overall scheme. The site is not within an ACA and there is no particular unifying theme or architectural style. Single storey dwellings are by no means representative of the prevailing character of the area.
- The scheme has been designed to ensure there will be no adverse impact on the residential amenities of the area from overlooking, loss of light and loss of privacy. The 1st floor separation distance between the dwellings and the properties to the west is approx. 40 metres. The parapet to the flat roofed ground floor rear extension will act as a screen to further limit overlooking potential. These areas are not proposed to be used as balconies. A condition attached to the decision requires alterations to the window opening in the western elevation of House No.4.
- The ridge heights vary between 17.79 and 21.95m. The ridge heights of immediate surrounding properties range between 17.08m to 22.47m. The height and massing was advanced having regard to this prevailing character of the area and the grain of existing dwellings on both The Crescent and Beaumont Drive.

- The proposal equates to 31 units per hectare and falls marginally below the Council's optimum density for suburban areas of between 35-50 units per hectare. The density reflects the existing pattern of development and will act as a natural infill development.
- With a plot ratio of 0.55 the proposal is below the indicative plot ratio of 1.0-1.5 detailed for inner suburban areas.
- Each dwelling is to have a generous garden and the scheme is subject to a high quality landscaping design. There are no Tree Preservation Orders on any of the trees on the site.
- Landscaping and planting is proposed along the length of the rear gardens to provide privacy and screening. The Landscaping Planning report accompanying the application details the boundary treatments. Condition 8 requires a 1.8 metre boundary wall with green screen planting.
- The site is currently serviced by two vehicular entrances. The entrance detail is consistent with the existing entrances in the immediate vicinity. It would not give rise to adverse traffic impacts and the condition attached to the permission provides a reasonable approach to mitigate against same.
- A condition requiring a Construction and Environmental Management Plan will address issues raised about the construction phase.
- The issue of subsidence is not addressed under the planning code.
- The suitability of the local drainage system has been assessed by the Planning Authority and Irish Water to which no objections were raised.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Zoning and Density
- Layout and Design
- Access and Traffic
- Miscellaneous Issues
- Appropriate Assessment

7.1. Zoning and Density

The site is within an area zoned ZO4 in the current Cork City Development the objective for which is to protect and provide for residential uses, local services, institutional uses, and civic uses having regard to employment policies. The proposal entailing the demolition of a dwelling, clearance of the site and construction of 4 no. dwellings accords with the said zoning provisions.

I submit that the site could appropriately be described as an infill site within an inner suburban location characterised by a mix of single, dormer and two storey dwellings. The proposal for 4 dwellings on a site with a stated area of 0.13 hectares equates to a density of in the region of 31 units per hectare. At such an inner suburban location such a density would be considered to be relatively low and falls short of the recommended City Development Plan parameters of between 35-50 units per hectare. However as per section 16.12 of the development plan and the relevant Guidelines for Sustainable Residential development due cognisance must be taken of the site constraints, the pattern of development in the vicinity and the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining dwellings and the need to provide for additional residential development. I propose to address such matters in the following sections.

7.2. Layout and design

The existing single storey dwelling on site is vacant and is not of any particular architectural merit. I have no objection to its demolition allowing for an increased density of development.

As noted above the area is characterised by a varied pattern of residential development providing for a mix of single, dormer, 2 storey detached and semi-detached units. As noted by the appellants the single/dormer dwellings are generally located to the west of The Crescent with two storey dwellings to the east. By reason of the topography the site is higher than the residential plots to the west that front onto Beaumont Drive and the dwellings to the north that front onto The Crescent. I would concur with the view that there is no overriding architectural style or design evident in the area and I consider that the size of the site and its location on a corner allows for a certain level of leeway in terms of house design and is not constrained by the single/dormer house design prevalent to the south (on same side of the road).

The proposal entails the east-west orientation of 3 of the dwellings with the 4th to have a north/south orientation. As delineated in the contextual site section drawing no. AR53-100 the ridge heights of the dwellings are comparable with the two storey dwellings to the east of The Crescent. Due to the site falls they are higher than the ridge heights of the dwellings to the west which front onto Beaumont Drive with the greatest differential being in the region of 4.8 - 5 metres. With a setback of approx. 40 metres to be maintained between opposing windows and the design measures to be employed in terms of the parapet feature to the single storey rear extension in house nos. 1-3 to assist in preventing overlooking, I do not consider that the differential gives rise to material concerns in terms of loss of privacy or overshadowing. The amendments/relocation of the window opening serving bedroom no.4 in House No.4 as required by condition 6 of the planning authority's notification of decision to grant permission is considered reasonable in order to address issues of overlooking. House No.3, whilst providing for living accommodation at 2nd floor level, will have a comparable ridge height to dwellings nos. 1 and 2 by reason of the slope of the site and is considered acceptable. I am also of the opinion that the house type proposed is conservative in design

incorporating an A-gable feature to the front elevation reflective of the dormer dwelling design to the south and the two storey dwellings to the north. A unifying palette of external finishes is also proposed.

Whilst the site sections do not include the dwellings to the north which are also lower than the site, the contextual elevation drawing no. AR43-000 does delineate same. House No. 4 which is to be oriented towards same would have a ridge height which is only marginally higher with a setback of in the region of 18 metres between opposing windows. As with the dwellings to the east the relationship of the proposed development to same is tempered by the public realm in-between (road and footpaths) with issues of overlooking or loss of privacy not considered to be of material concern.

The units are to have rear garden lengths of between 7.3 and 8.5 metres with the private open space ranging between 106 and 141 sq.m. which exceeds the City Development Plan requirements of 60-75 sq.m. as set out in Table 16.7.

I note the concerns raised with respect to the boundary delineation to the west with the properties that front onto Beaumont Drive with specific reference made to the hedgerow to No.28 and the interface with the 1.8 metre boundary wall required by condition. Such a boundary delineation is considered appropriate but does not confer rights to remove the said hedgerow. Should permission be granted I recommend that the applicant be advised of the provisions of 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 to carry out any development.

I am therefore of the opinion that the development plan requirements for infill housing as set out in Section 16.59 are attained in that the proposal would not detract from the built character of the area, would not adversely affect the neighbouring residential amenities, is respectful of the existing built fabric and heights with an appropriate density and plot ratio, whilst providing for adequate amenity for prospective occupants.

7.3. Access and Traffic

Each dwelling is to be served by an access from The Crescent with access to House No.4 availing of the existing entrance along the northern boundary which is to be

widened. Whilst the proximity of the existing and proposed entrances to the corner are noted which impacts on visibility, the volume of traffic and speed of vehicles along the road are low. Subject to appropriate boundary treatment I do not consider that the vehicular movements would give rise to a traffic hazard. Each dwelling can provide for two off street parking spaces which accords with the City Development Plan requirements. I note that the Council's Roads Engineer has no objection to the proposal

7.4. Miscellaneous Issues

Whilst construction works can give rise to issues with regard to noise, dust etc. such works are, by their nature, temporary in duration. A condition requiring the preparation of a construction management plan is considered appropriate in this regard.

The site is fully serviced with no objections noted from Irish Water.

Whilst the site has a number of mature trees none are listed for protection by way of a Tree Preservation Order. There is no objection to their removal.

Subsidence has been raised by the appellants. This is not a matter for comment in this appeal process.

I note the reference to the record of the pre-planning consultations/meetings or absence thereof. Any further query on this issue is a matter for the planning authority.

7.5. Appropriate Assessment

Having regard to the location of the fully serviced infill site within Cork City surrounded by existing residential development no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the zoning of the subject site, as set out in the Cork City Development Plan 2015-2021, to the nature, extent and design of the proposed development, and to the 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, would not be out of character with the pattern and design of development in the area, and would be acceptable in terms of traffic safety and convenience. 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, 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) All windows serving landings, WCs ensuite WCs and bathrooms in the proposed development shall be permanently fitted with opaque glazing.
 - (b) The window opening serving Bedroom No.4 in House Number 4 shall

be amended and/or relocated to preclude overlooking of adjoining property. Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interests of ensuring the protection of residential amenities of adjoining property.

3. The flat roofs over part of the ground floor to the rear of the proposed dwellings shall not be used as a balcony or roof garden and shall not be accessible.

Reason: In the interests of ensuring the protection of residential amenities of adjoining property.

4. 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. Roof colours shall be blue-black or dark grey only, including ridge tiles.

Reason: In the interest of protecting the residential amenity of surrounding properties.

5. Site development and building works shall be carried out only between 08.00 hours and 18.00 hours Mondays to Fridays excluding bank holidays and between 08.00 hours and 13.00 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of protecting the residential amenity of adjoining properties.

6. 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 noise management measures, measures to prevent pollution to local watercourses, and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

7. 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

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

Reason: In the interest of visual and residential amenity, and of sustainable development.

9.
 - (a) Front boundary walls, pillars and gates including dividing walls to the front of the permitted dwellings shall not exceed 1 metre in height.
 - (b) A 1.8 metre high wall shall be erected along the western boundary of the site.

Reason: In the interest of protecting amenities of adjoining property and to allow for visibility at proposed accesses.

10. The landscaping scheme accompanying the planning application shall be implemented in full in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season

thereafter.

Reason: In the interests of visual amenity.

11. The developer shall pay to the planning authority a financial contribution in respect of Cork Suburban Rail project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

12. 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.

Pauline Fitzpatrick
Senior Planning Inspector

July, 2018