



An
Bord
Pleanála

Inspector's Report ABP 303415-19.

Development	Demolition of house and construction of a new two storey house.
Location	Mossgrove, 33 Farranlea Park, Model Farm Road, Cork.
Planning Authority	Cork City Council.
Planning Authority Reg. Ref.	1837988.
Applicant	Catherine Lynch.
Type of Application	Permission.
Planning Authority Decision	Grant permission with conditions.
Type of Appeal	Third Party.
Appellants	1. Donal & Ruth O'Sullivan. 2. Joe & Vera Foran.
Observer(s)	None.
Date of Site Inspection	27 th March 2019.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1. The site with a stated area of c.0.054 hectares is located on the western side of Farranlea Park which is north of the Model Farm Road in the south western suburbs of Cork city.
- 1.2. Mossgrove, a single storey detached house, occupies the site and is bounded on either side by single story houses with similar front facades. To the south 'Silverdell' (31 Farranlea Park) an appellant's house (detached single storey) has substantial extensions to the rear with dormer windows to the rear. To the north 'Lisheen' (35 Farranlea Park), the second appellants house (semi-detached single storey), for the most part remains unaltered. The houses are sited on generous plots with a lane running along the western (rear) boundaries, a number of houses have gated access off this unsurfaced overgrown lane.
- 1.3. Farranlea Park itself has a mixture of house types ranging from modest single storey to larger two storey houses, detached and semi-detached. On the eastern side of Farranlea Park, opposite the site there are two storey houses. To the north on the eastern side is a similar configuration as the applicant's house and that of the two appellants with the middle house now a dormer style dwelling between two modest single storey houses.

2.0 Proposed Development

- 2.1 The proposed development consists of the demolition of 'Mossgrove' a single storey detached house with a stated area of c.143.5sq.m and the construction of a two storey house with a stated area of c197 sq.m (as per application form) on a site with a stated area of c.0.054 hectares.

2.2 Further Information submission

This included:

- Revised plans and particulars showing location of windows to the rear elevation.

- Modifications to the design including a reduction in the overall height by c. 0.76m and revised roof profile.
- Site layout and location of windows on adjoining properties.
- The proposed house (as per plans submitted under further information) has a gfa of c. 202.33sq.m.

3.0 Planning Authority Decision

3.1 Decision

Grant permission subject to 12 standard conditions. These included:

Condition No. 4 requiring that the first floor bathroom and landing gable windows be of obscured glazing.

Condition No. 5, that the flat roof to the rear should not be used as a roof terrace or balcony.

3.2 Planning Authority Reports

3.2.1 Planning Reports (A/SEP Reports of the 12th September 2018 & 17th December 2018 (countersigned by SEP 17th December 2018)).

The Planners reports broadly formed the basis of the Planning Authority's decision.

Following a further information request requiring clarification of the location of windows to the rear elevation, layout of neighbouring properties and location of their windows and revised height and roof profile. The A/SEP was satisfied that the applicant in their revised submission had addressed the outstanding issues and a recommendation to grant permission issued.

3.2.2 Other Technical Reports

Environment Section (9th August 2018). No objection subject to conditions.

Roads Design (Planning) (30th August 2018). No objection subject to conditions.

Drainage Section (4th September 2018). No objection subject to conditions.

3.3 Prescribed Bodies.

Irish Water (7th September 2018). No objection subject to notes.

DAA (27th August 2018). As the site is located within the 'Outer Public Safety Zone' relating to Cork airport regard should be had to the safety zones of the Cork City Development Plan

3.4 Submissions.

Submissions were received from the current appellants. The issues raised are broadly in line with the grounds of appeal and shall be dealt with in more detail in the relevant section of this report. Concerns raised included:

- The proposed house would be out of sequence in a row of 6 bungalows, resulting in a loss of character and style along Farranlea Park.
- It would be visually overbearing, obtrusive and oppressive.
- Loss of light.
- Loss of privacy.
- The proposed house would be too large for the site and too close to the site boundaries.

4.0 Planning History

None as per the Planning register.

5.0 Policy and Context

5.1 Cork City Development Plan 2015-2021

The site is zoned **ZO 4** Residential, Local Services and Institutional Uses with the objective 'to protect and provide for residential uses, local services,

institutional uses and civic uses having regard to employment policies outlined in Chapter 3'.

Paragraph 15.10 of the Plan states that the provision and protection of residential uses and residential amenity is a central objective of this zoning.

Residential Strategy

Chapter 6 contains the residential strategy.

Objective 6.1 sets out the general residential strategic objectives.

General Development Management:

Section 16.46 refers to proposal for residential design.

Section 16.49 refers to new residential developments.

Section 16.58 refers to single units including corner/garden sites.

Section 16.73 refers to residential entrances/parking in front gardens.

5.2 Natural Heritage Designations

The closest European sites are Cork Harbour SPA (site code 004030) and Great Island Chanel cSAC (site code 001058).

5.3 EIA Screening

5.3.1 Having regard to the nature and scale of the development which consists of a new dwelling in a built up suburban area there is no likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

Two third party appeals were lodged:

1. Donal & Ruth O'Sullivan, 'Silverdell', 31 Farranlea Park, Model Farm Road, Cork. (property adjoining the appeal site to the south).

2. Joe & Vera Foran, 'Lisheen', 35 Farranlea Park, Model farm Road, Cork.
(property adjoining the appeal site to the north).

There is an overlap and reiteration of issues throughout both of the appeals. I therefore propose to summarise the issues by topic.

The second named appellants requested an Oral Hearing. The Board by order dated 5th March 2018 decided that there was sufficient written evidence on file to enable an assessment of issues raised, and therefore that an Oral Hearing would not be held.

6.1 Grounds of Appeal

6.1.1 Design

- The proposed development does not comply with Part D Chapter 16.72 relating to extensions and alterations to dwellings.
- The proposal does not respect the sequence of buildings within the park, it fails to respect the character and integrity of the existing streetscape.
- The height of the proposed development and its limited set back from the site boundaries would result in overshadowing of adjoining properties.
- The proposal represents a haphazard form of development in a mature residential area.
- The proposed development, by reason of its excessive height, scale and massing, would result in loss of the style and character of the area and would be visually overbearing on the adjoining properties.
- The proposal would be at odds with the character of Farranlea Park and would detract from the area. The pre war bungalows are an important legacy of the past and should be protected for future generations.
- The proposal does not maintain the roof line. Photographs are submitted to illustrate this.

6.1.2 Impact on adjoining properties.

- The design and layout of the proposal should have regard to the amenities of the adjoining properties, in particular scale, roof pitches, proximity to boundaries and impact on access to sunlight, daylight and privacy.
- The proposal would have an overbearing and oppressive impact on the adjoining properties and render sections of their private amenity area useless.
- A Sunlight/Daylight Analysis was submitted by the second named appellants with the grounds of appeal relating to the impact on No. 35.
- Loss of light in the kitchen of no. 35 would seriously devalue the property.
- Loss of skyline.
- Query overshadowing reports submitted with the application.
- Reference to the Prescription Act 1832.
- Reference to Isabel Barros Architects blog.
- Overlooking from first floor windows.
- Photographs of two 18 foot timber poles erected at the boundary with no. 33 in what the appellant states is the approximate location of the proposed wall to indicate impact.

6.1.3 Other:

- The applicant did not consult with the neighbours prior to lodging the application.
- Devaluation of adjoining properties.
- The demolition of the existing house and the construction of a new house would have a detrimental impact on the structural integrity of Lisheen to the north.
- Inaccurate details in the planning application form that refers to 'no' demolition of a habitable house.

Reference to other applications:

- 29 Farranlea Park (PA Ref. 06/30612, ABP Ref. PL.28.220200).
- 'Inverlee', Farranlea Road and ABP Inspector's report

- Similar developments in Bishopstown, in particular No 12 Rossa Avenue, from 2015.

6.1.4 Supporting documentation included by Donal & Ruth O’Sullivan:

- Copy of application drawings with comments noted.

6.1.5 Supporting documentation included by Joe & Vera Foran:

- Aerial image of Farranlea Park.
- Shading/Daylight Assessment & Report.
- Copy of the Overshadowing Assessment submitted with the planning application.
- Copy of submission to Cork City Council.
- Photographic evidence of light levels within 35 Farranlea Park.
- Photographs of 31, 33 and 35 and the need to protect the layout.
- Photographs to illustrate the symmetry of houses along Farranlea Park.
- Photograph of two storey house, similar in footprint and height to that proposed.
- Copies of planners reports.
- Copy of contiguous elevation drawing submitted with the application.
- Copy of An Bord Pleanala documents for PL.28.220200 referring to 29 Farranlea Park (2007). Also included are copies of submissions to Cork City Council, reports, Cork City Council decision etc.
- Copy of An Bord Pleanala documents for PL.28.220683 referring to Inverlee, Farranlea Park (2007).
- Copy of email from Area Planner to P. Mulligan regarding a query for 12 Rossa Avenue.
- Copy of planning application form submitted by the applicant.

6.2 Applicant Response to the third party appeals

This is mainly in the form of a rebuttal. Point of note relating to each appeal are highlighted below:

6.2.1 Response to the appeal by Donal & Ruth O'Sullivan.

- The applicant complies with the requirements for lodging a planning application, this included placing an ad in the paper and erecting a site notice to inform third parties of the proposal. The applicant has fully engaged with the planning process.
- Clause 16.72 relating to extensions and alterations to existing dwellings does not apply in this instance.
- The proposal would have a positive impact on the value of the applicant's property and that of adjoining properties.
- There is a precedent in Farranlea Park for single storey houses to be flanked by two storey ones. The area is characterised by a mixture of house types. A point the area planner took into consideration when assessing the application.
- The overshadowing assessment submitted as further information to the planning authority clearly demonstrates that there is no issue of overshadowing of the first named appellant's property which is situated due south of the applicant's property.
- Overlooking is not an issue.

6.2.2 Response to the appeal by Joe & Vera Foran.

This is mainly in the form of a rebuttal. Points of note include:

- The design of the proposed house is not out of character with the area and considered acceptable by the planning authority.
- The proposal would have a positive impact on the value of adjoining properties.

- The house is designed to have regard to the amenities of the adjoining properties, amendments at further information stage addressed concerns that the Planning authority raised with the initial design.
- The overshadowing assessment submitted by the applicant included 3D imagery of the proposed structures and their relationship with Lisheen. The visualisation indicates that some change will occur to the shade cast over the Lisheen property with some improvement and some dis-improvements. Overall the study demonstrates that there will not be significant change and the Lisheen property will continue to enjoy good day light and sunlight.
- The 45 degree rule of thumb used by the appellant's advisor does not apply in this instance, this test is used to assess extensions that are perpendicular to a window. The 25 degree rule is the appropriate test in this instance.
- An assessment of the structural integrity of the existing house was undertaken to assess if it was worthy of retention (letter included with the response).
- The proposal complies with 16.58 and 16.46 of the Cork City Development Plan.
- In response to the Shading/Daylight assessment submitted with the appeal:
 - The appropriate tests were conducted by the applicant's advisors, including: The 25 degree Test, the result of which required further assessment tests namely (1) the Vertical Sky Component (which met the BRE criteria) and the Annual Probable Sunlight Hours (which met the BRE criteria).
 - The analysis submitted with the appeal concluded that the increase in shading by the proposed new dwelling will result in overshadowing of the ground floor living spaces in Lisheen at certain times of the year.

- The applicants notes that the proposed dwelling is positioned due south of Lisheen. Both properties have an east west orientation. It is therefore impossible for the applicant's proposed dwelling to overshadow Lisheen to the extent claimed. As the sun moves further west on the sun path. Both properties have the benefit of full western exposure and access to afternoon sunshine.
- Images from both analysis have been submitted for comparison purposes.
- It is also noted that the existing trees within Lisheen's rear garden cause significant overshadowing in the afternoon.
- The applicant queries the appropriateness of the method and tools (EPiSUN) used for the assessment of daylight within a dwelling.
- The applicant has engaged fully with the planning process in terms of requirement for lodging a planning application and informing third parties.
- The appellant has misunderstood the drawings. There is no 18ft wall proposed 6ft away from their kitchen window.
- No. 33 Farranlea Park is not a protected structure.
- Farranlea Park is not a designated Architectural Conservation Area.
- In respect of roof lines, the area is not characterised by a uniformity of roof lines or profiles.

6.3 Planning Authority Response

None.

6.4 Observations

None.

7.0 Assessment

Two third party appeals have been lodged. There is a series of overlap and reiteration in the issues raised in the grounds of both appeals, I therefore propose to assess the issues by topic. The issue of appropriate assessment also needs to be addressed. The main issues are:

- Design & Height
- Impact on adjoining properties.
- Other
- Appropriate Assessment.

7.1 Design & Height

7.1.1 Permission is sought for a c.202sq.m (as stated in the plans submitted with the further information response) two storey house with a maximum ridge height of c 8.2m, located between two single storey houses (one has dormer windows to the rear). The height of the proposed two storey elements set back c 1.17m from No. 31 and no. 35 respectively is c. 5.57m at eaves level, rising to a central apex of c. 8.2m. A flat roofed single storey element is proposed to the rear, set back c. 1.17m from the boundary with Lisheen. The site has a stated area of c. 540 sq.m. The existing house to be demolished has a gfa of c.143sq.m. Section 16.49 of the Development Plan refers to new residential development. The area is characterised by a mixture of built forms and styles, ranging from single storey to large detached two storey houses along Farranlea Park. I am satisfied that the current proposal reflects the height of the houses in the immediate vicinity and, in my view, the overall design, scale and massing of the proposed development respects the predominant pattern of development in this area. It would not form a discordant feature on the streetscape at this location and would not detract from the character and architectural grain of the area.

- 7.1.2 The appellants raised concerns regarding the potential for the proposed development to be overbearing when viewed from the adjoining properties to the north, No. 31 Farranlea Park 'Silverdell', and to the south, No. 35 Farranlea Park 'Lisheen'. I note that the distance from the two storey elements of the proposed house and No. 31 to the south, which has dormer windows to the rear roof slope and a substantial rear extension, is c. 1.17m. The set back from No. 35 to the north is c.1.17m which has ground floor windows serving a kitchen and a box room facing the existing boundary wall between No. 33 and No. 35.
- 7.1.3 I consider that the impact of the proposed house within the site to be acceptable due to its design, scale and context. In my view the use of different roof profiles and setbacks reduces the overall bulk and scale of the proposed house. The proposed development in terms of design, scale, mass and height would not have an overbearing impact on neighbouring properties or from the adjoining public road. The set back of the two storey elements from the site boundaries is sufficient to address the concerns raised by the appellants in relation to the overbearing impact on the adjoining properties, No. 31 and No. 35 Farranlea Park.
- 7.1.4 In this instance, I am satisfied that the proposal is an appropriate design intervention at this location as it adequately addresses the prominent location of the site along the Farranlea Park in an area which has a variety of house types and designs. The proposal would not detract from the architectural composition of the existing streetscape and would not form a discordant or incongruous feature on the streetscape. The scale, height and mass is not considered overbearing and is satisfactory in terms of protecting the character, setting and amenities of the existing house and streetscape.

7.2 Impact on adjoining properties

- 7.2.1 The appellants raised concerns that the adjoining properties would be overlooked by the proposed development. Windows at first floor level to the northern and southern gables serve bathrooms and a landing. I am satisfied

that the use of obscured glazing could be required by condition to address the concerns raised by the appellants if the Board considers granting permission.

- 7.2.2 There are windows proposed at ground floor level to the northern and southern elevations. It is commonly understood that overlooking between properties does not usually occur at ground floor level. This is because in most urban cases a two metre solid boundary from the front building line back, either a wall or fence, is erected to screen views and in rural areas landscaping along site boundaries is conditioned to screen sites. In this instance, I am satisfied that adequate boundary treatment is proposed to the northern and southern boundaries. The orientation of the proposed house and its relationship to the adjoining properties would not result in undue overlooking of rear amenity areas from first floor windows on the western elevation.
- 7.2.3 The appellant's have also referred to overshadowing in the grounds of appeal arising from the scale and height of the proposed house and its proximity to the common boundary with No.31 and No. 35 in particular.
- 7.2.4 The Shadow analysis and diagrams submitted with the appeal concluded that the proposed development will have a significant impact on the daylight/sunlight conditions which would be available to the No. 35. The methodology and results have been disputed by the applicant in her response to the appeal.
- 7.2.5 The proposed house would be sited to the south of the rear garden of No. 35 at a setback of c. 1.17m. As noted in section 7.1.4, the house would be set back c.1.17m from the shared boundary at a height of c.3.5m (flat roof) rising to c. 5.5m at the eaves (2 storey element), rising to c. 8.2m at its apex. I acknowledge that the proposals would lead to some overshadowing of the private amenity space of No. 35. This area already experiences a degree of overshadowing due the current boundary treatment and planting within the garden of No. 35. No. 31 is sited due north of the proposed house. I am of the view that while there would be a degree of overshadowing it is not of an extent that would detract from the residential amenities of adjoining properties, in particular No. 35 Farranlea Park (Lisheen) or No. 31 Farranlea Park (Silverdell) and warrant a reason for refusal. I am satisfied that the scale and setback of

the proposal is such that it would not detract from the residential amenities of adjoining properties taking into account the orientation of the site and the relationship of the properties to each other.

- 7.2.6 There is an expectation within urban areas that there will be a degree of overshadowing between neighbouring properties. I have examined the Sunlight/daylight/shading Studies and Diagrams submitted by all parties. I consider the proposed house will not have a material impact on the degree of overshadowing currently experienced by adjoining properties or a significant loss of light and therefore will not have any additional negative impact on the residential amenities of same.
- 7.2.7 I consider having regard to the height of the proposed house, the set back from the boundaries and the relationship with adjoining properties that no significant reduction in sunlight/daylight amenity can be expected for any of the neighbouring gardens.
- 7.2.8 I consider that the development is acceptable in the context of the amenities of adjoining properties. Its overall design and scale has adequate regard to the existing pattern of development and the residential amenities of existing dwellings, and such would not result in an overbearing impact or an unacceptable loss of privacy or light levels.
- 7.2.9 It is considered that the proposed development, in terms of design, scale, height, provision and location of open space, boundary treatment and overall form and mass would not form a discordant feature on the streetscape. The scale, mass and height of the proposed house would not have an overbearing impact when viewed from adjoining properties or the public road. The set back of the two storey elements from the site boundaries is sufficient to address the concerns raised in relation to the overshadowing impact on and would not detract from the residential amenities of adjoining properties, in particular, No. 31 and No. 35 Farranlea Park.
- 7.2.10 I, therefore, consider that the appeal should not be upheld on these grounds and permission should be granted subject to modified conditions.

7.3 Other

7.3.1 The second named appellants have raised concerns that the demolition of the existing house and construction of a new one would have a negative impact on the structural stability of No. 35 Farranlea Park (Lisheen)

7.3.2 I note that the impacts associated with the demolition and construction works and construction traffic would be temporary and of a limited duration. I am satisfied that any outstanding issues could be addressed by condition if the Board is of a mind to grant permission.

7.3.3 No. 33 Farranlea Park is not a protected structure and the area is not a designated Architectural Conservation Area, therefore the relevant Development Plan policies do not apply.

7.4 Appropriate Assessment

7.4.1 Having regard to nature and small scale of the development and the location of the site in a fully serviced built up area, 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 planning permission be granted for the following reasons and considerations and subject to the conditions set out hereunder.

9.0 Reasons and Considerations

Having regard to the location of the site, the nature, scale and design of the proposed dwelling and the provisions of the Cork City Development Plan 2015-2021, it is considered that, subject to compliance with the conditions set out below, the proposed dwelling would integrate in a satisfactory manner with the existing built development in the area, would not detract from the character or setting of existing streetscape and would adequately protect the residential amenity of adjacent properties. 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. 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. The windows serving all bathrooms, en-suites and landings shall be permanently fitted and maintained with obscure or stained glass. The use of film is not permitted.

Reason: In the interests of proper planning and sustainable development of the area

4. The flat roof to the rear of the property shall not be used as a terrace, balcony or for any similar purpose.

Reason: In the interest of residential amenities

5. 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.

6. All necessary measures be taken by the contractor, including the provision

of wheel wash facilities, to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

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 noise and dust management measures and off-site disposal of construction/demolition waste.

- b) 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.

- c) Prior to the commencement of development the developer shall submit for the written agreement of the Planning Authority details and methodology for the site excavation works. This shall include timeframes and proposals to deal with vibration and noise.

- d) All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

8. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Dáire McDevitt
Planning Inspector

18th April 2019