



An  
Bord  
Pleanála

## Inspector's Report ABP-303780-19

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<b>Development</b>	Permission to construct a 2 storey dwelling house.
<b>Location</b>	68 Earlwood Estate, The Lough, Co Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	18/38151
<b>Applicant(s)</b>	Sarah Murphy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Sarah Murphy
<b>Observer(s)</b>	1. Nuala Houlihan & Others
<b>Date of Site Inspection</b>	13 <sup>th</sup> June 2019
<b>Inspector</b>	Fiona Fair.

## 1.0 Site Location and Description

- 1.1.1. The appeal site (0.0182ha) is situated on the northern side of Earlwood Estate, an established residential area south of the Lough, and comprises a portion of the side and rear garden of a two storey, semi-detached dwelling house.
- 1.1.2. The Lough, which comprises a large body of water surrounded by open space, playgrounds and walks is situated in the central suburbs area to the south west of Cork City. Land use in the surrounding area is predominantly residential.
- 1.1.3. There is an existing garage / shed on site (13.42 sq. m) and gravelled area, the side garden is cordoned off from the main dwelling by a fence. The existing dwelling at No. 68 Earlwood faces south west, the subject appeal site is orientated north south. The subject site is served by an existing vehicular entrance.

## 2.0 Proposed Development

- 2.1. The proposal comprises permission to construct:
  - A two-bedroom dwelling house (94 sq. m) within the grounds of the existing dwelling using the existing vehicle entrance and
  - The construction of a new vehicle entrance for the existing house.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission Refused for one number reason, summarised as follows:

1. Having regard to the character of Earlwood Estate and its environs, the context of the proposed development site in relation to surrounding properties, the general pattern of development in the area and the provisions of the Cork City Development Plan, it is considered that the proposed development would be out of keeping with the pattern of development in the area, would have a detrimental impact on the amenities currently enjoyed by the occupiers of the adjacent residential property by reason of its overbearing impact, and would result in substandard provision of private open space for the proposed new dwelling and

the existing dwelling. The proposed dwelling would therefore seriously injure the amenities and depreciate the value of property in the vicinity...

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

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

The Planners Report sets out that the siting and design of the proposed dwelling results in a poor relationship with the existing dwelling on the site. It is considered that any proposed dwelling on this site requires a much more considered design approach.

#### **3.2.2. Other Technical Reports:**

Roads Design (Planning): FI requested to omit additional entrance serving existing property.

Drainage: No objection subject to condition

Environment: No objection subject to condition

Irish Water (IW): No objection subject to condition

### **3.3. Prescribed Bodies**

None.

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

A number of objections on file. Issues raised include:

- Negative impact upon residential amenity
- Undesirable precedent
- Planning history of refusal on the site
- Loss of privacy / Overlooking
- Traffic impact - Access unsuitable
- Subsidence issues
- Property likely to be rented out

- Loss of sunlight / daylight / overshadowing
- Blocking of views / oppressive
- Exacerbate on going drainage issues at existing house
- Concern re asbestos from the roof of the garage upon demolition
- Excessive density
- Noise pollution
- Under provision of private open space
- Adverse effects of relocation of the ESB pole – loss of service.

## 4.0 Planning History

### 4.1.1. On the Appeal Site

**Reg. Ref. 07/32649** Planning Permission Refused to demolish existing shed and to construct new two storey detached dwelling and associated site works to side of existing dwelling and new driveway and vehicular entrance to existing dwelling.

**Reg. Ref. 07/31770** Planning Permission Refused to demolish existing shed and to construct new two storey detached dwelling and associated site works to side of existing dwelling and new driveway and vehicular entrance to existing dwelling.

**Reg. Ref. 08/32749** Planning Permission Refused to construct a new driveway and vehicular entrance to existing dwelling.

## 5.0 Policy Context

### 5.1. National Planning Policy

5.1.1. The following are considered to be of relevance to the proposed development:

- National Planning Framework (NPF) is the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040.
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)

- Design Manual for Urban Roads and Streets

## 5.2. Development Plan

- 5.2.1. The Cork City Development Plan 2015 - 2021 is the relevant statutory Plan.
- 5.2.2. The site is located within the 'Southern suburbs', more specifically within the 'South Central Suburbs', in an area zoned 'Residential, Local Services and Institutions in the City Development Plan', with the policy: 'to protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies outlined in Chapter 3.
- 5.2.3. The following sections of the City Plan are of relevance to this appeal:

Chapter 16 Standards for residential development

Section 16.12 Density

Section 16.41 Residential density

Section 16.46 Residential Design

Section 16.49 Residential Developments

Section 16.58 Policy on single units including corner / garden sites

Section 16.59 Infill Housing

Section 16.73 Residential Entrances / Parking in Front Gardens

## 5.3. Natural Heritage Designations

- 5.3.1. The site is located approx. 3.6 Km east from the Special Protection Areas: Cork Harbour SPA (Site Code: 004030) and approx. 12 Km east from Special Area of Conservation: Great Island Channel SAC (001058)

## 5.4. Environmental Impact Assessment (EIA)

- 5.4.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real 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

### 6.1. Grounds of Appeal

The issues raised are summarised as follows:

- The appeal site is zoned residential
- The proposal is for an infill house to the side of a derelict side garden to no. 68
- The applicant had preplanning discussions with the p.a. and took on board feedback.
- The house design reflects the character of the street in terms of design, proportion, massing, density and materials of surrounding buildings.
- Private open space meets the minimum requirements of the Development Plan
- If there is an assumption that the study could be changed to a bedroom it could be changed to an en-suite to allay fears.
- The overlooking from the rear bedroom window can be overcome by moving the window to the side
- A similar application was granted under 07/32218 and it overlooks several properties.
- Reg. Ref. 11/35133 / PL28.240371 should be considered. ABP granted planning permission for a large extension the size of another house,

Appeal Accompanied with:

- A slightly amended design of dwelling, rear first floor bedroom window relocated to the side.
- Copy of pre-planning record

### 6.2. Planning Authority Response

Response received, no further comments to make.

### 6.3. Observations

6.3.1. An observation was received it is summarised as follows:

- Overbearing
- Negative precedent
- In the precedent cases cited both dwellings were attached to the host dwelling
- This application is for a separate detached house
- Over shadowing, in particular to no. 67
- Proposed driveway is hazardous due to its proximity to the corner.

### 7.0 Assessment

The issues of the subject appeal case can be dealt with under the following headings:

- **Principle of the Development on the Site**
- **Impact Upon Amenity of the Area & Residential Amenity**
- **Access and Car Parking**
- **Appropriate Assessment**

#### 7.1. Principle of the Development on the Site

7.1.1. The proposed infill dwelling is acceptable in principle on this serviced urban site within Cork City, which is zoned 'Residential, Local Services and Institutions in the City Development Plan', with the policy: 'to protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies outlined in Chapter 3.

7.1.2. The planning authority are not supportive of the subject proposal. It is their opinion that the proposal would result in an inappropriate level of development, it is considered that the proposed development would be out of keeping with the pattern of development in the area, would have a detrimental impact on the amenities currently enjoyed by the occupiers of the adjacent residential property by reason of

its overbearing impact, and would result in substandard provision of private open space for the proposed new dwelling and the existing dwelling.

- 7.1.3. I do not agree, this is a large side garden site. The dwelling has been site specifically designed to have regard to the constraints of the site. Impacts upon amenity of the area and residential amenity are considered in greater detail in the succeeding section of this report. However it is considered that in principle the proposed dwelling accords with recent Government policy for densification within cities on appropriate sites, in proximity to public transport network, which is considered critical to support sustainable growth. Regard is had to Urban Development and Building Height, Guidelines for Planning Authorities' (Dec 2018). It is pertinent to refer to section 2.14 of the Guidelines which state that 'in the interests of achieving national policy objectives for significantly increased urban housing delivery, there is a need for planning policy to ensure that an appropriate quantum of residential developments is included as part of significant development proposals for individual sites and urban neighbourhoods'. I note also The National Planning Framework (NPF) and Regional Spatial and Economic Strategy (RSES) which support compact growth, densification and consolidation. Densification is appropriate on this site.

## **7.2. Impact Upon Amenity and Residential Amenity**

- 7.2.1. Regard is had to concerns raised by the objectors and the planning authority in this regard. The amendments proposed by way of revised plans submitted with the appeal incorporating a proposal to relocate the first-floor rear bedroom window to the west gable elevation or to fit a timber sheeting panel to the outside of the window, should the Board decide same necessary, are duly noted. I also note the proposed window projection to prevent overlooking as incorporated into the original plans submitted with the application dated 27<sup>th</sup> November 2018.
- 7.2.2. Having regard to the character of the Earlwood Estate and its environs, I am of the opinion the design of the dwelling is acceptable and would not be out of keeping with the pattern of development in the area or have a detrimental impact on the amenities currently enjoyed by the occupiers of the adjacent residential property by reason of overlooking or overbearing impact. The dwelling is moderate in scale and as is evident from proposed 3D Views Drg. No. 1796-PA1-P07 it sits comfortably within its



setting. This is a relatively large side and rear garden site. Cognisance is had to the demolition of the in-situ garage. The proposed dwelling is orientated north south and does not directly oppose a dwelling to its rear. The proposed dwelling respects the building line to its east and given its orientation would not give rise to overbearing impact. The bedroom window proposed at first floor would not in my opinion diminish the current level of privacy of adjoining residential development, in any material sense. The issues of 22m separation distance between opposing first floor windows does not arise. 54 sq. m of private open space is proposed to serve the proposed new two bedroom dwelling and 80 sq. m will remain to serve the existing host dwelling. I consider this level of open space is wholly acceptable within an urban context.

- 7.2.3. It is considered that the site comprises a generous rear / side garden within the existing built up area. The dwelling has been site specifically designed to fit into its setting and respects the character of the existing area. Cognisance being had to the nature of the site and surrounding existing development, it is considered that the dwelling would not have a negative impact upon existing residential amenity or visual amenity of the area, given its design, massing, scale, height and proposed finishes.
- 7.2.4. Overall, it is considered that the proposed development would not diminish residential amenity so as to warrant a refusal of permission.

### **7.3. Access and Car Parking**

- 7.3.1. I note that the red line boundary does not extend around / include the proposed new entrance (as per public notices) required to serve the existing host dwelling. Therefore, it cannot be considered as part of the subject planning application. A separate application for vehicular access to serve the host dwelling is required.
- 7.3.2. I consider a separate vehicular access, as currently proposed, to serve the host dwelling would in principle be acceptable, subject to relevant planning permission being sought. The area engineer has not raised any issues with respect to traffic hazard, I agree the issues has arisen from a technical / procedural error and can be amended by way of a subsequent planning application.
- 7.3.3. In the in-term, this matter can be dealt with by way of condition, requiring that no development commence on the subject development until such a time as planning

permission has been granted for a separate vehicular entrance and off-street car parking area to serve the host dwelling.

#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development and to nature of the receiving environment, a serviced site within an existing built up area, and to the lack of connectivity to a European site, 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**

- 8.1.1. I recommend that planning permission should be Granted to the proposed development subject to conditions set out below.

#### **9.0 Reasons and Considerations**

- 9.1.1. Having regard to the land-use zoning of the site, the existing pattern of development on the site and in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not give rise to a traffic hazard, be injurious to visual amenity of the area or injure residential amenity of property in the vicinity. 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 host dwelling and the new dwelling permitted by way of this grant of planning permission shall both be used solely as single residential dwelling units.

**Reason:** In the interest of residential amenity.

3. (a) The vehicular entrance proposed to serve the host dwelling, number 68 Earlwood Estate, is not permitted under this permission given its location outside of the red line boundary of the application site.

(b) Prior to the commencement of any development on this site the applicant / developer shall apply for and receive a grant of planning permission for a separate vehicular entrance and car parking area to serve the host dwelling.

**Reason:** In the interest of traffic safety.

4. (a) All en-suite and wardrobe windows shall be permanently fitted and maintained with obscure or stained glass.

(b) Prior to the commencement of development full details (specifications) for the external finishes shall be submitted for the written agreement of the planning authority.

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

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. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

7. That 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.

8. (a) The construction of the development shall be managed in accordance with a Construction Environmental 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 and off-site disposal of construction/demolition waste.

(b) Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 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 the interests of public safety and residential amenity

9. 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.

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Fiona Fair

Planning Inspector

12.07.2019