



An
Bord
Pleanála

Inspector's Report ABP-306663-20

Development	House and ancillary development
Location	“Clifton”, Leycesters Lane / Middle Glanmire Road, Montenotte, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	19/38883
Applicant(s)	Grangefield Developments Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Grangefield Developments Limited
Observer(s)	Grace Wallace Paul Stokes
Date of Site Inspection	19 th May, 2020
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The 0.10985 hectare site is located just over 1km from Cork City Centre within the Montenotte district of the city. The surrounding area comprises mainly housing, with schools and institutional uses to the east and a hotel to the west. The site is located on the eastern corner of the junction of Middle Glanmire Road and Leycesters Lane. It lies on a south facing slope fronting onto Middle Glanmire Road and forms a plot within a larger land area associated with a former convalescent home known as Clifton House. This area to the south of former convalescent home is a landscaped lawn on which there are a number of mature and semi-mature trees and shrubbery. A gate lodge lies to the west of this plot and is immediately east of a main entrance into the property. The boundary with Middle Glanmire Road comprises a retaining wall constructed of natural stone.

2.0 Proposed Development

2.1. The proposed development would comprise the construction of a two-storey, four bedroom, detached house with a stated gross floor area of 249.47 square metres, together with associated landscaping, boundary treatment and parking.

3.0 Planning Authority Decision

3.1. Decision

On 22nd January 2020, Cork City Council decided to refuse permission for the proposed development for two reasons relating to the material contravention of a zoning objective and the adverse impact on Clifton House, a house of architectural heritage importance.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history, development plan provisions, third party submissions, reports received, and the decision of the Board and the Inspector's report relating to ABP-303454-18. The principal issue was considered to

be compliance with the zoning objective for the site. It was noted that the proposal would result in the loss of vegetation that forms the most significant part of the tree canopy at that location and was determined to be contrary to the zoning. It was further determined that the proposal had not demonstrated that the dwelling would not impact on the cultural landscape nor that it would sever the relationship between the gate lodge and Clifton House. A refusal of permission was recommended.

The Senior Executive Planner noted the site's planning history, the Board's previous decision, development plan provisions, the Conservation Officer's report and recommended that permission be refused for two reasons.

3.2.2. Other Technical Reports

The Environment Section had no objection to the proposal and set out a schedule of conditions.

The Roads Design Section had no objection to the proposal and set out a schedule of conditions.

The Drainage Engineer had no objection to the proposal and set out a schedule of conditions.

The Conservation Section considered the proposed location of the house, accessed via the avenue, constitutes an interference with the setting of Clifton House. A refusal of permission for this reason was recommended.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

3.4. Third Party Observations

Objections to the proposal were received from Paul Stokes and Grace Wallace. The concerns raised related to the landscape and ecological impacts, the visual impact, impact on the relationship with Clifton House, the traffic impact, impact on the residential amenity of the gate lodge, design of the proposed house, zoning, the precedent of the Board's previous decision relating to the site, and precedent for further development.

4.0 Planning History

P.A. Ref. 00/23948

Permission was granted by the planning authority for a new car park and alterations to an entrance.

ABP-303454-19

Permission was granted by the Board for the demolition of an existing convalescent home to the rear of Clifton House, a single storey extension to the gate lodge, and the construction of 8 no. detached houses. The original proposal to include a ninth house on the site for the current proposed development was omitted by way of condition in order to comply with Objective 10.5 of the City Development Plan in the interest of visual amenity.

5.0 Policy Context

5.1. Cork City Development Plan 2015-2021

Zoning

The site is zoned as a landscape preservation zone. This zone is denoted as NE 8. The CDP's Map 15 – Views and Prospects: NE shows the site as lying on the Montenotte/ Tivoli Ridge.

Landscape Preservation Zones

Landscape Preservation Zones (LPZs) are areas in need of special protection as their character and amenity value are considered to be to highly sensitive to development and as such have limited or no development potential. Typically the landscape character of LPZs combines distinctive landscape assets such as topography / slope, tree cover, setting to historic structures / other types of open spaces and other landscape assets.

The objective of LPZs is to preserve and enhance the landscape character and assets of the sites. There is a presumption against development within LPZs.

Development in LPZs is limited in scope and character to the respective site-specific objectives, outlined in Table 2. In exceptional circumstances, there may be limited scope for development to enable existing occupiers to adapt existing buildings to their evolving requirements, providing that the form or nature of development is compatible with the landscape character of the area. This might include a change of use and/or minor extensions.

Objective 10.5 Landscape Preservation Zones

To preserve and enhance the character and visual amenity of Landscape Preservation Zones through the control of development. Development will be considered only where it safeguards to the value and sensitivity of the particular landscape and achieves the respective site specific objectives, as set out in Table 10.2.

The site-specific objectives for NE 8 are as follows:

C: Tree canopy – Areas with existing woodlands or significant tree groups, or areas with potential for new woodlands, and

G: Landmarks/natural features/cultural landscape – Land forming the setting to existing landmark buildings and/or protected structures/buildings of significance.

5.2. Appropriate Assessment

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.3. EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal may be synthesised as follows:

- The planning authority's decision to refuse:
 - relies on statements in regard to the conservation status of the site that are factually incorrect. The second reason for refusal is based on a factual error and should be omitted;
 - is inconsistent with the conservation assessment made by the planning authority under P.A. Ref. 18/37931;
 - misrepresents the purpose of the zoning objective for Landscape Preservation Zone NE8. The first reason for refusal is invalid as the alleged adverse effects of the proposed development on Landscape Preservation Zone NE8 are not relevant to landscape assets 'C' and 'G' in Table 10.2;
 - fails to critically assess the incorrect basis on which the Board attached Condition 2 to the grant of permission under ABP-303454-18;
 - fails to give due consideration to the amendments which were made to the layout and design of the dwelling in order to address the Board's concerns. In response to planning authority concerns, a revised site layout is submitted with the appeal which moves the proposed house further from the avenue and from the existing tree line to the west and ensures there would be no overlap with the dripline of the existing trees. A landscape plan is also submitted to provide for further planting to the east of the proposed house to help restore the character of the estate and to ensure there would be no adverse impact on the Landscape Preservation Zone; and
 - fails to give due consideration to the overarching objective of encouraging infill residential development in established residential areas.

6.2. **Planning Authority Response**

The planning authority submitted that it had no further comments to make.

6.3. **Observations**

The observer Grace Wallace referenced the Board's previous decision and submitted the landscape designation and Objective 10.5 of the City Development Plan had not changed. The architectural value of Clifton House and the provisions of the Development Plan as they relate to landscape are emphasised.

The observer Paul Stokes supports the decision of the planning authority, expressed concerns relating to the landscape impact of the proposal and noted Development Plan provisions relating to landscape and areas of high landscape value. The observer submits a rebuttal of the appellant's grounds of appeal.

I note that both observers included their submissions to the planning authority in their observations to the Board.

7.0 **Assessment**

7.1 The issue meriting consideration in this assessment is how the proposed development meets with the relevant provisions set out in the current Cork City Development Plan.

7.2 The site of the proposed development lies within one of the City Development Plan's designated 'Landscape Preservation Zones' (LPZs). The relevant zone for the site is denoted as NE 8. The Plan notes that LPZs are areas in need of special protection as their character and amenity value are considered to be to highly sensitive to development and as such have limited or no development potential. Typically the landscape character of LPZs combines distinctive landscape assets such as topography / slope, tree cover, setting to historic structures / other types of open spaces and other landscape assets.

7.3 The Plan expressly states in Section 10.21:

There will be a presumption against development within LPZs. Development in LPZs is limited in scope and character to the respective site specific objectives, outlined in Table 2. In exceptional circumstances, there may be limited scope for development to enable existing occupiers to adapt existing buildings to their evolving requirements, providing that the form or nature of development is compatible with the landscape character of the area. This might include a change of use and/or minor extensions.

7.4 Objective 10.5 of the Plan is the objective relating to LPZs and is as follows:

To preserve and enhance the character and visual amenity of Landscape Preservation Zones through the control of development. Development will be considered only where it safeguards the value and sensitivity of the particular landscape and achieves the respective site specific objectives, as set out in Table 10.2.

7.5 The site-specific objectives for NE 8 are as follows:

C: Tree canopy – Areas with existing woodlands or significant tree groups, or areas with potential for new woodlands, and

G: Landmarks/natural features/cultural landscape – Land forming the setting to existing landmark buildings and/or protected structures/buildings of significance.

7.6 Having regard to the above, it is acknowledged that the objective is to preserve and enhance the character and visual amenity of Landscape Preservation Zone NE 8, of which the site forms a part, through controlling development in the LPZ. Any development within this LPZ can only be considered where it safeguards the value and sensitivity of the landscape and achieves the respective site-specific objectives, as set out in Table 10.2, namely where it safeguards the established tree canopy at this location and safeguards the lands forming the setting to an existing landmark building and/or building of significance. The relevant building is clearly understood to be Clifton House.

- 7.7 The proposal seeks the development of a house within LPZ NE 8. The City Development Plan very clearly states that there will be a presumption against development within LPZs. Only in exceptional circumstances is there any scope for development. It is notable that this is stated to be to enable existing occupiers to adapt “existing buildings”, providing it is compatible with the landscape character of the area and that this might include a change of use and/or minor extensions. It could not be clearer that development of the nature proposed cannot be accommodated on this site based on the Plan provisions. The proposed development is not an exception. The presumption against development of the nature proposed is required to prevail.
- 7.8 Further to the appellant’s submission relating to the proposal constituting some form of ‘infill’ residential development, it is clearly not and could not be considered to be assessed against the provisions of the City Development Plan as they relate to ‘Infill Housing’. It is proposed development within a Landscape Preservation Zone and the provisions of the Plan relating to LPZs are key to determining the acceptability of the principle of development on such lands.
- 7.9 The site and adjoining lands form the NE 8 LPZ because they merit safeguarding, for amenity reasons, the value of the tree canopy at this location. The construction of a house within this LPZ would distort and distinctively undermine the cultivated amenity that has been permitted to evolve at this location. The associated tree canopy within the LPZ is particularly recognised as contributing to the character and visual amenity of this LPZ. Constructing a house, including excavation, groundworks, laying of services, etc. interfere and evidently threaten the viability and sustainability of such features when the proposed development is placed amongst tree groupings, affecting drainage, stability, etc. Unquestionably the character and setting of such features is undermined by the construction and occupation of a house within such a setting.
- 7.10 The site and adjoining lands form the NE 8 LPZ also because they merit safeguarding, for amenity reasons, the land forming the setting to Clifton House, recognised as an existing landmark building and/or a building of significance. I acknowledge that Clifton House is not a protected structure. However, it is very clear from Map 3 ‘Central Suburbs Objectives’ of the City Development Plan that LPZ NE 8 applies to Clifton House and its associated curtilage. From this one can deduce

that Clifton House must be seen by the planning authority to be a building of some significance. This is reflected in the report of the Conservation Officer to the planning authority in its considerations on the planning application. It is evident that constructing a house on the land forming the setting to Clifton House does not preserve and enhance the character and visual amenity of these lands. There would be a distinct distortion and erosion of the lands that form the current setting to Clifton House. The result would be that the proposed development would not safeguard the value and sensitivity of this landscape and would not achieve the site-specific objectives relevant to this LPZ.

7.11 Finally, I note the previous Board decision relating to the construction of houses within the curtilage of Clifton House under ABP-303454-19. A scheme of nine houses was reduced to eight by the decision. The ninth house was proposed to be located within a similar plot to that now proposed for a house. Condition 2 of the Board's decision omitted House no. 9 and required the house plot to remain as a landscaped area. The reason given was "In order to ensure compliance with Objective 10.5 of the Cork City Development Plan 2015-2021, in the interest of visual amenity." This condition was entirely consistent with the Development Plan provisions as they relate to LPZs. It is evident that the Board has determined that this land area should be preserved in accordance with Plan provisions as they relate to LPZs. The proposed development would, therefore, conflict with the Board's previous decision.

8.0 Recommendation

8.1. I recommend that permission is refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The site of the proposed development is located within Landscape Preservation Zone NE 8 as designated in Cork City Development Plan 2015-2021. It is the objective of the Plan (Objective 10.5) to preserve and enhance the character and visual amenity of this Landscape Preservation Zone. Any development within the Zone can only be considered where it safeguards the value and

sensitivity of the landscape and achieves the respective site-specific objectives for this zone, which relate to the tree canopy within the Zone and the land forming the setting to Clifton House, a building recognised as being of significance. There is a presumption against development within this Zone and only in exceptional circumstances is there limited scope for development to enable existing occupiers to adapt existing buildings to their evolving requirements.

It is considered that the construction of a house within the Landscape Preservation Zone does not constitute an exceptional circumstance, would physically distort and undermine the cultivated amenity of the land, inclusive of its tree canopy, and would erode and undermine the lands that form the existing setting to Clifton House. The proposed development would, therefore, fail to safeguard the value and sensitivity of this landscape, would be contrary to the site-specific objectives that relate to Landscape Preservation Zone NE 8, and would, thus, materially contravene Objective 10.5 of Cork City Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would contravene materially a condition attached to an existing permission for development, namely condition number 2 attached to the permission granted by An Bord Pleanála on the 14th day of May 2019 under reference ABP-303454-19, which prohibited the development of a house at this location and required the area to remain as a landscaped area in order to ensure compliance with Objective 10.5 of Cork City Development Plan and in the interest of visual amenity.

Kevin Moore
Senior Planning Inspector

27th May 2020