



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308457-20

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<b>Development</b>	Demolition of an existing house, construction of 2 houses and all associated site works.
<b>Location</b>	Church Road , Douglas , Co. Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	2039112
<b>Applicant(s)</b>	Kevin and Claire Manning.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Kevin and Claire Manning
<b>Observer(s)</b>	Joy Barry Black and Mark Black.
<b>Date of Site Inspection</b>	5 <sup>th</sup> January 2021.
<b>Inspector</b>	Bríd Maxwell

## 1.0 Site Location and Description

1.1. This appeal relates to the site of an established detached single storey dwelling located on Church Road in Douglas. The site has a stated area of 0.457 hectares and is surrounded by residential dwellings. To the northeast is *Carlton* a one and half storey detached dwelling of recent construction and to the southwest by *Culdaff* a dormer detached dwelling. To the northwest is *Cloncarrig* a one and half storey detached dwelling. Further to the southwest is a small housing development *Pembroke Mews* which comprises five no two storey terraced and semi-detached houses. On the opposite side of the road is the concrete retaining wall adjacent to the R855 Carrigaline Road.

## 2.0 Proposed Development

- 2.1. The application as set out involves permission for the demolition of the existing single storey dwellinghouse 102.4m<sup>2</sup> and the construction of 2 no demi-detached dwellinghouses 264m<sup>2</sup>, new vehicular entrances, connections to services, boundary treatments and all associated works.
- 2.2. The proposed dwellings have a hipped roof with blue black fibre cement slate and a smooth render finish. In response to a request for additional information some revisions were made to the proposal including a reduction in eaves height and ridge height to correspond with those of the adjacent dwelling to the east. A single vehicular entrance is proposed to both dwellings with three shared parking spaces.
- 2.3. The application is accompanied by an Exemption certificate under Part V Section 97(3) of the Planning and Development Act 2000 as amended.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1 By order dated 24<sup>th</sup> September 2020 Cork City Council issued notification of its decision to refuse permission for the following reasons:

*It is considered that the proposed development by reason of its scale, layout and design would constitute an excessive density and inappropriate scale of development and would result in overshadowing of the neighbouring properties. The forgoing would result in a negative impact on the residential amenity of the adjacent dwellings, depreciate the value of property in the vicinity, and would be contrary to the objectives of the Cork County Development Plan. The proposed development would represent overdevelopment of the site and would seriously injure the amenities of the area and of property in the vicinity by reason of overshadowing and overbearing appearance and would, therefore be contrary to the proper planning and sustainable development of the area.*

*The site is inadequate in area to allow the satisfactory provision of on site parking/turning to serve the development. The proposed development would accordingly, generate roadside parking which would tend to create serious traffic congestion.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

Senior Executive Planner Community, Culture and Placemaking expresses concern that the provision of a pair of demi detached dwelling is out of character with the predominant detached dwelling type. Eaves level and ridge height are considered excessive. Concerns regarding impact on private amenity area of the adjacent dwelling to the east. A further information requested issued seeking a reduction in eaves level and ridge height, consideration to provision of one dwelling only on the site. A shadow study was requested to assess impact on adjacent properties. Applicant was requested to demonstrate provision for parking / turning within the site, boundary proposals, surface water proposals and demonstrate engagement with Irish Water in relation to a pre connection enquiry.

Following submission of Additional information, the Assistant Planner's report countersigned by Senior Executive Planner considers that the proposal would have serious impact on the residential amenity of the adjacent dwelling to the east. Refusal was recommended for the reasons as outlined in the decision.

### 3.2.2. Other Technical Reports

Environmental Report indicates no objection subject to conditions.

Executive Engineer drainage – no objection.

Roads Design (Planning) Report – No objection subject to conditions.

Area Engineer. Proposed traffic arrangement which will result in cars reversing onto the road not acceptable. Surface water to be disposed on site or subject to consent of Irish water to foul sewer. Refusal recommended.

Contributions report recommends contribution of €14,078.13.

### 3.3. Prescribed Bodies

Irish Water applicant to engage with Irish Water through pre connection enquiry.

### 3.4. Third Party Observations

3.4.1 Submission by Joy Barry Black and Mark Black neighbouring residents to the east. (*Carlton*) No objection to redevelopment of the site however two dwellings would give rise to excessive traffic. result in overshadowing overlooking and diminution of residential amenity.

3.4.2 Submission of Aidan and Paula O Regan *Cloncarrig*, Douglas Lawn to the northwest. Object on grounds of excessive density. Traffic hazard. Disruption arising for sewer excavation.

## 4.0 Planning History

09/5097 Adjoining site to the east. Permission granted for demolition of existing structure new detached dwellinghouse.

05/1818 Permission granted for new dormer dwelling at Culdaff to the southwest.

0810096 & 096407 Site to the north west. Permission granted for demolition of single storey dwelling and construction of a new 1 and half storey dwelling at Cloncarrig, Douglas Lawn.

TP09/6858 Permission for alterations and extension to existing dwelling, Dun Mhuire Douglas Lawn.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1 The site was previously part of the administrative area of Cork County Council which was subsequently transferred to Cork City Council in May 2019. The development plan guiding the area is the Cork County Development Plan 2014-2020 and the Ballincollig Carrigaline Municipal District LAP 2017 and is zoned “existing built-up area”.

### **5.2. Natural Heritage Designations**

The site is not within a designated area. The nearest sites include  
Cork Harbour SPA (Site Code 004030)  
Great Island Channel cSAC (Site Code 001058)

### **5.3. EIA Screening**

On the issue of Environmental Impact Assessment screening having regard to the limited nature and scale of the development, nature of the receiving environment no likelihood of significant effects on the environment arises from the development. The need for environmental impact assessment can, therefore, be excluded.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1 The appeal is submitted by DMNA Ltd. Architects and Landscape Architects on behalf of the first party. Grounds of appeal are summarised as follows:

- Request that the Board consider the proposed de novo on basis of amendments included with the appeal to address concerns.
- Notably during the planning application of adjoining Carlton to the east the issue of overshadowing was addressed and the planner concluded that no significant adverse impact would arise.
- Application for Carlton proposed a 2m high boundary wall with the appeal site. This wall has only been built to 1.7m. to the front and side and not to the rear.
- Amendments to the proposal seek to reduce the scale of development including reduction in overall footprint of the proposed development from 154sq.m to 147sq.m. Reduction in first floor area from 100sq.m, to 91 sq.m with consequent reduction in the overall floor area from 254sq.m to 238sq.m
- Relocation of the dwelling to east by 670mm and setback from the front boundary by 1200mm. Hipped roof is increased by reduction in ceiling height at the eaves to 2100mm.
- Site can accommodate 4 car parking spaces with turning area within the plot.
- Proposed ridge height is same as Culdaff dwelling to the west. Eaves is 2m lower than that of Carlton to the east and are considerably lower than 5 houses on Pembroke Mews to the west.
- Proposal has a similar site coverage and lower plot ratio than the adjoining site to the east Carlton and slightly higher site coverage and similar plot ratio to Cloncarrig to the north west. Scale of the proposal is in accordance with the pattern in the area and does not constitute an excessive or inappropriate scale of development.
- Revised shadow analysis shows that while there are some changes to the shadow cast over neighbouring properties depending on time of day and season there will not be a significant adverse impact. Culdaff property will have increased shade in the mornings due to the proposed development.
- Removal of trees will improve daylighting to neighbouring properties.
- Design seeks to minimise potential overshadowing impact on the neighbouring Carlton dwelling.

- As regards the contention that the site does not provide adequate on site parking / turning, the site is well served by public transport. The requirement for 2 spaces per dwelling would contradict national guidance which aims to increase modal shift.
- Proposal is a sustainable development maximising the development potential of this urban site to accommodate 2 houses in close proximity to local services, schools and community facilities.

## 6.2. Planning Authority Response

6.2.1 The response by the planning authority maintains that the decision to refuse permission is consistent with the provisions of the Cork County Development Plan 2014 and the proper planning and sustainable development of the area.

## 6.3. Observations

6.3.1 Submission of Joy Barry Black and Mark Black owners of the adjacent dwelling to the east known as Carlton is summarised as follows:

- No objection to redevelopment of the site. The provision of 2 no two storey dwellings is unattainable on this constrained site and will have a significant impact on residential amenity in terms of overshadowing overlooking.
- Proposed dwelling designs out of character and below par in terms of achieving adequate standards of residential amenity.
- Revisions to the proposal do not address the first reason for refusal.
- Plot ratio not directly comparable as established properties are detached dwellings.
- Proposal for semi-detached dwellings out of character.
- City Plan requires that private open space for a 3 bed semi detached house within a suburban area should provide for between 60-75m<sup>2</sup> of private open space. Proposed open space is 52m.sq. at most.
- Overshadowing impacts are significant and adverse.

- Question the accuracy of shadow studies. Appendix B shows a comparison between shadow studies as submitted at further information stage and for the purpose of the appeal. There appears to be a significant reduction in the overshadowing presented in baseline situation as presented on 14:00 and 16:00 on 21<sup>st</sup> March and 14:00 on 21 June.
- Contest assertion that the boundary wall is not 2m in height. Any disparity may be as a result of higher gradient to west. Internal landscaping and decking may have raised internal site levels.
- Based on current proposals windows on ground floor and first floor will be c9m from observer's windows and will be directly overlooked.
- Proposal will significantly result in overlooking of amenity area and open up observer's property from footpath and roadway.
- Proposal detracts from the character of the area by way of inappropriate scale of development, adverse impact by way of overlooking and overshadowing and devaluation of property.
- Reconfiguration to accommodate parking on the site results in setting back of building line.
- Bats known to be present in the rear garden of the property. Further survey should be carried out prior to demolition.

## 7.0 **Assessment**

7.1. Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider that the key issues arising in this appeal can be considered under the following broad headings.

- Principle of development.



- Traffic and Access
- Quality of design and layout.
- Impact on Established Residential Amenity.
- Appropriate Assessment and other matters

## 7.2. Principle of development

7.2.1 As regards the principle of development, the site is zoned existing built up area. The relevant objective ZU 3-1 to normally encourage through the Local Area Plans development that supports the primary land use of the surrounding built up area. The existing structure on the site is of no particular architectural or heritage merit and I note the precedent set by similar replacement dwellings on the adjoining sites, therefore the demolition of the dwelling is appropriate. The proposal to provide a modern standard of residential development on the site is appropriate in terms of this zoning objective. As regards the proposed densification of the site I note that the site is well-located in close proximity to all amenities and to public transport and therefore the proposal is in accordance with the general policy desirability to increase densities within serviced urban areas in the interest of efficient land use resources and economies of scale. As regards the contention that semi-detached dwellings would be out of character, I note the mixed character of the area which includes predominantly detached dwellings immediately adjacent and on Douglas Lawn but also semi-detached and terraced dwellings at Pembroke Mews. Based on the foregoing therefore the principle of development is appropriate and the focus for assessment is on the detailed nature of the development with particular reference to impact on the streetscape, impact on established residential amenity and traffic impact.

## 7.3 Traffic and Access.

7.3.1 I note that the Council's second reason for refusal was on the basis that "*the site is inadequate in area to allow the satisfactory provision of on-site parking/turning to serve the development. The proposed development would accordingly, generate roadside parking which would tend to create serious traffic congestion.*" The technical reports on the case set out a requirement for two car parking spaces per dwelling. I am inclined to concur with the assertions of the first party within the grounds of appeal that having

regard to the location of the site with good public transport options the requirement for two spaces per dwelling would present as contrary to national guidance which seeks to increase modal shift towards more sustainable transport patterns. In any case I note that the revised layout as submitted with the appeal to the Board provides for four on site car parking spaces. On this basis I consider that refusal on the basis of traffic congestion arising from overspill parking is not warranted.

#### **7.4 Quality of Design and Layout**

7.4.1 As regards the issue of the residential amenity of the proposed dwelling units, I note that the floor areas of the proposed dwellings meet the minimum standards in terms of floor areas and private open space provision and provide for an adequate standard of residential amenity. The proposal can be considered positively in this context. As regards the scale and height of the proposed dwellings I note contiguous elevation submitted with the grounds of appeal which demonstrates the proposal in context. I consider that in terms of design and scale the proposed appropriately addresses its context and is not out of character.

#### **7.5 Impact on Established Residential Amenity.**

7.5.1 The Council's first reason for refusal and the third-party observers express concerns regarding overshadowing impact and overlooking. As regards overshadowing I note the submitted shadow impact assessment submitted with the grounds of appeal which outlines the main impacts of the proposal. The main changes in shadow cast over neighbouring properties depending on the time of day and the season are demonstrated. It is noted that the removal of existing evergreen vegetation to the rear garden will reduce existing shadowing to adjacent properties and I note the detailed design features in terms of graded setbacks which address overshadowing impact. I am satisfied that in the context the proposal does not give rise to a substantive overshadowing that would diminish established residential amenity.

7.5.2 As regards overlooking I note that the design appropriately mitigates potential for overlooking. Upper floor windows to side elevation of dwellings are suitably

obscurely glazed while the upper floor windows to the rear elevation are set back circa 10m from the rear site boundary where it meets the side garden boundary of adjacent dwelling Cloncarrig. I consider that no undue impact on residential amenity will arise in terms of overlooking or outlook. On balance I consider that the design and layout appropriately mitigates negative impacts on established residential amenity and the proposed development represents an appropriate infill development of the site.

## **7.6 Appropriate Assessment and other matters**

- 7.6.1 On the matter of appropriate assessment, having regard to nature and scale of the proposed development the fully serviced nature of the site and proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 7.6.2 Regarding potential for bat species on the site I consider that this can be addressed by condition.

## **8 Recommendation**

The proposed development is acceptable in terms of land use planning and sustainable development. The proposed infill is appropriate in the context of the site and in terms of its impacts on the surrounding area. Having regard to the foregoing, I recommend that permission be granted for the proposed development for the reasons and consideration and subject to the conditions set out below:

### **Reasons and Considerations**

Having regard to the zoning objective for the area, the design and form of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be generally in accordance with the Cork County Development Plan 2014-2020, would not seriously injure the amenities of adjacent residential neighbourhoods or of the property in the vicinity, would not be prejudicial to public and environmental health 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.

### **Conditions**

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further information submitted on 28<sup>th</sup> day of August 2020 and particulars received by An Bord Pleanála on 20<sup>th</sup> day of October 2020 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Entrance from the public road shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

3. Prior to the commencement of development details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and in the interest of visual amenity.

4. Prior to commencement of development, the developer shall enter into a water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

5. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

6. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard ducting shall be provided to facilitate the provision of broadband infrastructure within the development.

Reason: In the interest of orderly development and the visual amenities of the area.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall be prepared in accordance with “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

8. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the Planning Authority.

Reason: In the interest of wildlife protection.

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

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

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the 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 Contributions Scheme made under section 48 of the Act be applied to the permission.

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Bríd Maxwell  
Planning Inspector  
8<sup>th</sup> January 2021