



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309100-21

<b>Development</b>	Demolition of dwelling & construction of 2 detached dwellings, alterations to existing site entrance layout and site boundary treatments and all ancillary site works.
<b>Location</b>	'Avoca' , Boreenmanna Road , Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	2039159
<b>Applicant(s)</b>	Waterfront Developments, The Lough Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Ronan & Laura Farrell Kirby.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	4 <sup>th</sup> March 2021.
<b>Inspector</b>	Bríd Maxwell

## 1.0 Site Location and Description

- 1.1. This appeal relates to the site of an established dwelling “Avoca” located within an inner suburban area to the south of Cork City Centre. The site has a stated area of 0.099 hectares and is occupied by a vacant single storey dwelling which has a floor area of 130sq.m. Access to the site is via a shared driveway with Rockboro Court, off Borenamanna Road. Rockboro Court comprises an infill development of three detached two storey houses which adjoin to the west of the appeal site. To the north and north east is a period two storey dwelling Rockville (owned by the third-party appellant). The site is bounded to the south by a slip road off the N27 South City Link Road. Appeal site boundaries are defined by a mix of block walls to the north south and west and an older stone wall along the boundary with the dwelling to the east.
- 1.2. The area is mature and predominantly residential in character with a mix of detached and semi-detached dwellings of varied style and age. Rockboro National School is located on the opposite side of Borenamanna Road to the south.

## 2.0 Proposed Development

- 2.1. The application involves permission for the demolition of the existing single storey dwelling and construction of 2 no 2 storey detached dwellings, alterations to existing site entrance layout and site boundary treatments, temporary site access with set down area from slip road to south of site and all ancillary site works.
- 2.2. The proposal is designed to continue the crescent form of the adjoining Rockboro Court. The proposed dwellings have a floor area of 177.41sq.m and open onto a shared area to the front. A car parking area is provided for 2 no cars and private open space is provided to the side and rear of the dwellings.
- 2.3. The application is accompanied by an Exemption Cert pursuant to Part 5 of the Planning and Development Act 2002.
- 2.4. Following a request for additional information some amendments were made to the proposal. House 1 rotated on site to mitigate impact on the amenity space of the adjacent dwelling. A louvred timber screen proposed to the bedroom window on the east side of the house to mitigate residual overlooking issues.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1 By order dated 1<sup>st</sup> December 2020 Cork City Council issued notification of decision to grant permission and 13 conditions were attached which included

Condition 3 The first-floor bathroom and ensuite windows on the Eastern and Western elevations shall be of obscured glazing and permanently maintained as such.

Condition 12 Development Contribution €18,949.26

Condition 13 Supplementary Contribution €3,587.84

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

3.2.2 Planner's initial report notes some concerns regarding the potential for overlooking of rear private amenity area of the adjacent dwelling Rockville to the east from upper floor bedroom to the rear of house no 1. Concerns also in relation to loss of light or overshadowing. The report recommended the issuing of a request for further information issued regarding question of overlooking and overshadowing. Sightlines also to be demonstrated and revised drainage design showing stormwater runoff. The first party was also advised to engage with Irish Water regarding pre connection agreement.

3.2.3 Final planners report considers that the revisions successfully mitigate the overlooking issue. While some overshadowing will occur, this is to be expected in a suburban location. Undue overshadowing or loss of light is not predicted. Permission was recommended subject to conditions consistent with the decision.

#### 3.2.2. Other Technical Reports

3.2.2.1 Environment report indicates no objection subject to conditions.

3.2.2.2 Drainage report deems further information necessary regarding drainage design. Stormwater to be retained on site and disposed to onsite soakaways.

- 3.2.2.3 Roads design report sightlines of 23m to be provided where indicates no objection subject to conditions.
- 3.2.2.4 Roads Design report sightlines of 23m to be provided where low vehicle speeds on the estate road can be demonstrated.
- 3.2.2.5 Contributions report No objection. Development Contribution €18,949.26.  
Supplementary Contribution €3,587.84

### 3.3. **Prescribed Bodies**

- 3.3.1 Health and Safety Authority – site is within the zone of a SEVESO site, which is covered by Regulation 24(2)(c) of S.I. 209 of 2015 (COMAH Risk Based Land Use Planning). However, the HSA does not advise against the granting of planning permission in the context of Major Accident Hazards.
- 3.3.2 Irish Water - Additional information required to include pre-connection enquiry. Exact location of proposed discharge manhole to be identified to enable assessment of capacity and feasibility. Following response to further information request the report indicates no objection subject to connection agreement, and subject to capacity requirements. Any existing lead services pipes and reductant watermains to be traced back and blanked off . CCTV survey to be provided.

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

- 3.4.1 Eileen O Sullivan, Avoca, Boreeenamanna Road objects to the proposal on grounds of loss of light, negative impact on privacy and setting, fire safety, traffic, drainage and potential structural impacts.
- 3.4.2 Submission by Ronan Kirby and Laura Farrell Kirby, Rockville. adjacent to the southeast object on grounds of domineering height, and negative impact on residential amenity. Their main living space is to the rear aspect and will be devastated by the proposal. Overbearing impact on home terrace and garden. Overshadowing and overlooking. Flooding issues. Hazard of proposed entrance off slip road from the southlink. Compound parking issues. Negative impact on architectural heritage.

3.4.3 Submission by Michael J Hennebry, Teach Rockgrove, objects on grounds of overdevelopment excessive height, overshadowing. Questions the capacity of existing services sewage and storm water systems. Flooding following periods of heavy rainfall. Construction access should not be provided from slip road.

## 4.0 Planning History

**19/38641** Application for permission for the demolition of existing single storey dwelling and construction of a new terraced development at 4 no 2 storey dwellings, separate covered bin store, alterations to existing site entrance, temporary site access with set-down area from slip-road to the south of the site and all ancillary works. Application withdrawn.

**PL28/243162 Site to the east of Rockville.** The Board overturned the decision of Cork City Council and granted permission for dwelling with integral domestic garage. The works include removal and re-instatement of a post box (a protected structure) in the re-instated boundary wall.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The Cork County Development Plan 2015-2021 refers. The site is in an area zoned ZO4 Residential, Local Services and Institutional Uses.

The objective is to protect and provide for residential uses, local services institutional use and civic uses having regard to employment policies outlined in chapter 3.

### 5.2. Natural Heritage Designations

The site is not within a designated area. The Great Island Channel SAC (001058) and Cork Harbour SPA (004030) lie approx. 2.5km to 8km to the south east.

### **5.3. EIA Screening**

- 5.3.1. 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 Ronan Kirby and Laura Farrell Kirby, Rockville, Boreenamanna Road.

- Appellants live directly adjacent to the development and continue to restore their period home.
- The domineering height of the proposed development will have a significant negative impact on residential amenity.
- Impact on light, heat, energy, privacy and residential amenity.
- Main aspect and outlook will be devastated by the development with significant negative impact on visual amenity.
- Blocking of late afternoon and evening sun to terrace.
- Shadow report conducted by the applicant is of limited quality misleading in its selections and narrative.
- Overbearing impact will dominate house and throw the downstairs living space into shadow as well as first floor bedrooms and home office.
- Ridge lines of house are 3.7m higher than that of the current house on the property and 10% higher than other houses on Rockboro Court.
- Noise impact
- Mature trees were removed from the site prior to the making of the application.

- Object to the proposed construction access from the slip road off the south link on basis of threat to road safety. Road survey was carried out on the northern section of the Boreenmannna Road
- Parking is a significant problem and will be exacerbated.
- Boundary wall between Rockville and Avoca is a beautiful original stone-built wall should be protected.
- Negative impact on architectural heritage.
- Proposal directly and significantly goes against the guidelines for infill housing.

## 6.2. Applicant Response

6.2.1 The submission is by James Bourke Architects on behalf of the first party and includes a shadow study and is summarised as follows:

- Refute claims that shadow study was of limited quality or misleading in its selection.
- The appellant's dwelling enjoys an elevated south facing rear façade which benefits from excellent levels of sun exposure throughout the year.
- Shadow study submitted includes an extensive 3D modelling exercise which illustrates sun levels at 2 hour intervals for typical days in March, June, September and December and further analysis in accordance with BRE Guidelines "Site Layout Planning for Daylight and Sunlight" is provided.
- In March Rockville benefits from an expansive array of solar exposure with direct sunlight from 10am to 5pm. The rear façade benefits from almost 3 times the recommended 25% exposure to annual probable daylight hours.
- Rear open space benefits from 7 times the amount of sunlight required under BRE Guidelines which requires a minimum of 12 hours of sunlight to at least 50% of the garden.
- At 21<sup>st</sup> June the rear aspect of Rockville house enjoys expansive exposure between 11.30am and 7.00 pm.

- Rockville House continues to enjoy excellent levels of sun exposure throughout the day.
- The impact to sunlight caused by the proposed new houses during the month of September is negligible. Rockville benefits from unobstructed sun exposure to the rear aspect from approximately 11am to 5pm each day regardless of the proposed new dwellings. The rear façade of Rockville benefits from almost 3 times of the required 25% exposure to annual probable daylight hours and the garden experiences 7 times the accepted standard of 2 hours of sunlight to at least 50% of the garden.
- Ridge height of proposed dwellings are 1.89m lower than Rockville House
- Orientation of houses was amended following request for additional information to complete the arc of the adjoining Rockboro Estate.
- Temporary construction access was proposed to minimise disruption to the estate roads. Ayrton Safety Consultants engaged to prepare a traffic management plan for the management of access and deliveries.
- Regarding boundary / party wall satisfied to maintain the segment of wall and it is not proposed for demolition. Southern section of the wall still be used for short term access is comprised of standard modern blocks and will be reinstated on completion.
- Arguably the site could accommodate more than 2 houses however proposal refined to be sympathetic.

### **6.3. Planning Authority Response**

6.3.1 The response of the Planning Authority maintains that the develop to grant permission is consistent with the provisions of the Cork City Development Plan 2015-2021 and the proper planning and sustainable development of the area.



## 6.4. Observations

6.4.1 No submissions.

## 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 addressed under the following broad headings.

- Principle of development.
- Quality of design and layout.
- Traffic and Access
- 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 Z04 Residential Local Services and Institutional Uses the objective “to protect, and provide for residential uses, local services, institutional use and civic uses, having regard to employment policies outlined in Chapter 3.” The proposal to provide two modern residential dwellings on the site is appropriate in terms of this zoning objective. The existing dwelling on site is of no particular architectural or heritage merit is evidently in a poor state of repair and therefore demolition of this structure to increase the density on the site is considered to be appropriate. 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. The focus for assessment is on the detailed nature of the development with particular reference to design

and impact on the streetscape, impact on established residential amenity and traffic impact.

### **7.3 Quality of Design and Layout**

7.3.1 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.

7.3.2 As regards the proposed design approach it is contemporary in character with plaster finish yellow brick to bay and zinc cladding feature to front elevation. The proposed layout continues the crescent form of the adjoining Rockboro Court and I am satisfied that the proposal successfully integrates with its context. As regards impact on streetscape, I consider that the proposed design provides for a varied and forward looking approach. In my view the proposal provides for an appropriate infill intervention and presents positively to the public realm. On balance I conclude that the proposal will result in the creation of two good quality modern dwellings and thus makes better use of the zoned land.

### **7.4 Traffic and Access.**

7.4.1 The third-party appeal submission raises the issues of traffic hazard and congestion. As regards parking it is proposed to provide two car parking spaces to serve the dwellings accessed via the existing entrance from Rockboro Court. I consider that this is a reasonable approach. Given the extent of traffic arising from a two-house proposal and having regard to the established vehicular access, on balance I consider that the proposed development will not give rise to a significant increase in traffic.

7.4.2 As regards the proposed construction access from the slip road to the south, this is intended to mitigate construction impacts on established residential amenity. I consider that subject to an appropriately designed traffic management plan construction traffic can be appropriately managed. On the basis of my assessment, I consider that the issue of access and traffic is not an impediment to the development of the site.

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

7.5.1 As regards overlooking and overshadowing, I note the relationship of the proposed dwellings with Rockville. I note that the orientation of the easternmost proposed house 1 was revised during the course of the application to mitigate impact on Rockville. Windows to the upper floor opposing gable elevation which serve a bathroom and ensuite are opaquely glazed to mitigate overlooking concerns. Window to western gable landing is also opaquely glazed. As regards overshadowing I note the detailed shadow analysis provided in response to the grounds of appeal. The assessment outlines that for Spring Equinox Sun Study, 21<sup>st</sup> March, Rockville benefits from almost 3 times the required 25% sun exposure to annual probable daylight hours. Regarding rear open space the garden benefits from 7 times the amount of sunlight required under BRE guidelines. The detailed study clearly demonstrates that the proposed development will not result in any substantive overshadowing that would diminish established residential amenity.

7.5.2 Whilst the proposed development will alter the established context, I consider that no undue impact on residential amenity will arise in terms of overlooking overshadowing or outlook. I do not consider that there is any evidence that the proposed development will give rise to a diminution of the value or architectural heritage of the adjacent dwelling. The expectation to retain an entirely open context would be unreasonable given the suburban serviced land context. 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.

**7.5.3** On the impact on established boundaries, I note that it is not proposed to alter the stone boundary wall with Rockville. Whilst given its context, I note that the development of the site will give rise to degree of disruption during the construction period, I note that this will be of limited duration and can be appropriately mitigated by standard good construction practice.

## **7.6 Other Matters and Appropriate Assessment**

7.6.1 As regards servicing, technical reports on file including submission from Irish Water indicate capacity in terms of public sewer and public water supply. As regards flood risk the site is not within a flood zone. Storm water is to be dealt with on site by means of a soakpit discharging to groundwater.

7.6.2 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

## **8.0 RECOMMENDATION**

Having considered the contents of this application in detail, the decision of the planning authority, the provisions of the Development Plan, the national guidelines, the grounds of appeal, my site inspection and my assessment of the planning issues, I consider it appropriate to recommend to the Board that permission be granted subject to the following:

## **REASONS AND CONSIDERATIONS**

Having regard to the location of the site on zoned lands, the layout of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further information submitted on 4<sup>th</sup> November 2020 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 the 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. 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.

3. Prior to the commencement of development, details of soft and hard landscaping scheme and boundary treatment details for the site shall be submitted to the Planning Authority for agreement.

Reason: In the interest of residential amenity,

4. The first-floor gable windows shall be permanently glazed with obscure glass.

Reason: In the interest of residential amenity.

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. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

7. Entrance from the public road and temporary construction access arrangements shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

8. 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.

9. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

10. 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.

11. 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. The plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, construction access and traffic management and off-site disposal of construction and demolition waste.

Reason: In the interest of public safety and residential amenity.

- 12 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.



13. The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the Planning Authority under Section 49 of the Planning and Development Act 2000. 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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Bríd Maxwell  
Planning Inspector

30<sup>th</sup> March 2021