



An
Bord
Pleanála

Inspector's Report ABP 309414-21

Development	Alterations to elevations and conversion of dwelling to 2 no. apartments including demolition of existing 2 storey rear extension, construction of new 2 storey extension and 3 no. dwellings.
Location	No. 62 Blarney Street and Leeview Terrace, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	20/39163
Applicant	Desmond O'Sullivan
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellant	Robert O'Callaghan & Others
Observer(s)	None
Date of Site Inspection	11/05/21
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.0431 hectares, comprises of a derelict, 2 storey terraced dwelling fronting onto Blarney Street and lands to the rear which are bounded by Leevview Terrace to the east and Nicholas Lane (also referred to as Upper Winter's Hill) to the south. The rear section of the site is surrounded by hoarding.

Leeview Terrace slopes down from north to south with small, two storey cottages to the east of the appeal site. There is a gate at its junction with Blarney Street which is locked in the evening and accessible only by key holders. Nicholas Lane is also characterised by small, two storey dwellings. Morroughs Hill completes the block to the west, also comprising of two storey dwellings. Again, it slopes down from north to south and is gated with access at night by key.

2.0 Proposed Development

The application was lodged with the planning authority on the 12/03/20 with further plans and details submitted 07/10/20 and 14/012/20 following requests for further information and clarification of further information dated 15/06/20 and 03/11/20 respectively. Revised public notices were received 07/10/20 and 16/12/20.

As amended, the proposal is seeking permission for:

1. Demolition of rear extension to No.62 Blarney Street, construct a new 2 storey extension and convert No. 62 into 2 no. 1 bedroom apartments. The units are to have stated floor areas of 46 sq.m.
2. 3 no. dwellings
 - 1 no. 1 bedroom
 - 2 no. 2 bedroom

The dwellings are to be served by private amenity spaces with a communal area in the centre accessed via a gated entrance from Leevview Terrace.

No parking is to be provided.

The application is accompanied by a Housing Mix and Design Statement.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 12 conditions. Of note:

Condition 2: Revised site plan to show private open space areas of no more than 10 sq.m. directly to the rear of the proposed dwellings with low walls or fences no more than 1.2 metres in height. The remaining area to be incorporated into communal open space for the use by all residents. The private spaces to be linked to the communal area by a gate.

Condition 3: Revised floor plans for the proposed apartments in No.62 Blarney Street showing internal storage areas as detailed on page 2 of the Schedule of Floor Area submitted 16/12/20.

Condition 6(b): Submission of construction management plan.

Condition 11: Archaeological requirements should material be discovered.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Executive Planner's report dated 11/06/20 notes:

- The proposal for 9 residential units equates to a density of 209 units per hectare. If sensitively designed there is no prohibition against higher densities in inner suburban areas, particularly for infill developments.
- The plot ratio of 1.05 reflects the nature of the proposal entirely made up of 1 bedroom or studio units with small floor areas. The changes proposed to 62 Blarney Street accord generally with the character of the area.
- Due to the tight urban grain the western portion of the new build, by reason of its scale and proximity to residences to the south, does not accord with the character of the area.
- The scheme does not accord with development plan requirements in terms of unit mix.

- A number of the units do not comply with the minimum space requirements as set out in the guidelines.
- There will not be a material impact on the visual amenity and character of the area.
- Absence of car parking provision accords with policies for the inner city.

Further information recommended to address the issues arising above in addition to revised plans showing extent of structures on adjoining sites, access to the scheme and waste storage/collection.

The Senior Executive Planner in a report dated 15/06/20, in endorsing the above FI request, states that the PA has serious concerns regarding the proposal particularly regarding the impact of the proposal on residential amenity. Given the strength of the concern compliance with the request for further information will not guarantee approval.

The 2nd Executive Planner's report dated 02/11/20 considers that the FI request was not adequately responded to and clarification was required.

The 3rd Executive Planner's report dated 18/01/21 following clarification of FI states:

- The omission of dwelling no.1 noted. The private open spaces to the rear of the dwellings are irregular in shape and unlikely to be usable. A condition to be attached that provides for smaller open spaces directly behind the dwellings and a larger communal area.
- On balance the development accords with the Best Practice Guidelines for Quality Housing for Sustainable Communities to an extent that will provide for adequate amenity for prospective occupants.
- The revised housing mix is acceptable.
- Matters relating to boundary walls and permission for works on party boundaries are considered ultra vires. Section 34(13) of the Act noted.
- The existing extension to No. 62 is already two storeys in height. The yards to the rear of No.63 Blarney Street and No.1. Morroughs Hill are already significantly constrained. It is not considered that the replacement rear extension will unduly impact on the amenities of these properties.

A grant of permission subject to conditions recommended.

Recommendation endorsed by the Senior Executive Planner.

3.2.2. Other Technical Reports

Road Design has no objection subject to conditions.

Environment Section has no objection subject to conditions.

Drainage Division in a report dated 22/04/20 recommends further information seeking a detailed drainage design. The 2nd report dated 27/10/20 following FI has no objection subject to conditions.

Contribution Reports sets out the financial levies applicable.

Housing Section notes that the proposal is exempt from Part V requirements.

Archaeology Report has no objection subject to a condition.

3.3. Prescribed Bodies

Inland Fisheries Ireland has no objection subject to Irish Water confirming there is sufficient capacity in the public sewer.

Irish Water recommends further information seeking a detailed drainage design.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to:-

- adverse impact on amenities of adjoining property
- absence of parking
- anti-social behaviour
- sewage capacity
- subsidence, building stability and structural damage
- Access by emergency services
- Excessive density

- Adverse impact on character of area
- No acknowledgement that Leeview Terrace is gated.
- Inaccuracies in plans and details.

4.0 Planning History

I am not aware of any previous planning applications on the site.

19/38873 – permission granted for dwelling at No.10 Leeview Terrace.

5.0 Policy Context

5.1. Development Plan

Cork City Development Plan 2015-2021

The site is zoned ZO 4- Residential, Local Services and Institutional Uses.

Residential is permitted in principle.

Section 16.42 Density – Densities in central and inner suburban (pre-1920) areas of the city will normally be higher than 75 units per hectare responding to the nature of their context and are more likely to be controlled by other considerations. These will include plot ratios and other planning and design considerations.

Table 16.1 – Plot Ratio

Inner Suburban Areas (pre 1920) –ratio of 1.5-1.75.

Table 16.7 – Open Space

Terraced Houses in Inner Urban Areas should have 40-60 sq.m. private open space.
1 bedroom apartments to have 6 sq.m.

Section 16 sets out the development management requirements for residential and apartments schemes.

Section 16.59 Infill Housing

To make the most sustainable use of existing urban land, the planning authority will consider the appropriate development of infill housing on suitable sites on a case by case basis taking into account their impact on adjoining houses, traffic safety etc. In

general, infill housing should comply with all relevant development plan standards for residential development, however, in certain limited circumstances the planning authority may relax the normal planning standards in the interest of developing vacant, derelict and underutilised land. Infill proposals should:

- Not detract from the built character of the area;
- Not adversely affect the neighbouring residential amenities;
- Respect the existing building lines, heights, materials and roof profile of surrounding buildings;
- Have an appropriate plot ratio and density for the site;
- Adequate amenity is proposed for the development.

5.2. Section 28 Guidelines

Regard is had to Sustainable Residential Developments in Urban Areas: Guidelines for Planning Authorities 2009

5.3. Natural Heritage Designations

None in the vicinity.

5.4. Environmental Impact Assessment

Having regard to the nature and extent of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an 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 3rd Party appeal, which is accompanied by supporting detail, can be summarised as follows:

- The planning authority's decision was made based on inaccurate site layout drawings delineating the appellants' properties and their open spaces.
- The demolition and rebuilding of the extension to the rear of No.62 Blarney Street will have an adverse impact on the amenities of their properties.
- The appellants have not been approached for their consent for the carrying out of the works to the common party wall. They do not wish for the wall to be demolished.
- Permission should be subject to the retention of the existing party walls with revised plans submitted to this effect.

6.2. Applicant Response

The submission by Harrington, O'Flynn Consulting Engineers refers:

- The applicant does not intend to cause any damage to the adjoining properties' boundary walls or dwellings.
- The application will liaise with the adjoining property owners/occupants prior to commencement of construction to ensure they are satisfied with proposed methodology.

6.3. Planning Authority Response

None

6.4. Observations

None

7.0 Assessment

I consider that the issues arising can be assessed under the following headings:

- Acceptability of Density
- Amenities of Adjoining Property
- Amenities of Prospective Occupants
- Access and Parking
- Appropriate Assessment

7.1. Acceptability of Density

The site, the majority of which is accessed by a lane off Blarney Street, is considered to comprise an inner suburban location with a tight urban grain. The immediate vicinity of the site is in residential use with commercial uses interspersed along Blarney Street. The site is within an area zoned Z04 the objective for which is to protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3. The proposal comprising the conversion of an existing dwelling into 2 no. apartments and the redevelopment of a vacant infill site for 3 no. dwellings units would accord with the zoning provisions for the area and is, therefore, acceptable in principle.

As noted the majority of the proposal comprises an infill development. In this context I have regard to the city development plan provisions for same as set out in section 16.59. Obviously, any development of the site will bring about a change in the streetscape and character of the immediate area and I accept that the site strictures are notable in terms of size and context. I submit that the challenge is to be sure that the design complements and does not detract from the area and provides for an appropriate form of development ensuring an acceptable level of residential amenity for prospective occupants, whilst protecting those of adjoining properties.

The proposal would have a plot ratio of in the region of 1 which is below the 1.5-1.75 range for such an inner suburban site. However, as noted in the development plan plot ratio is secondary to other built form and planning considerations and should not be used to critique a particular built form as qualitative standards (such as scale, building height, enclosure ratio, space provision and quality etc.) will be overriding

considerations. In terms of density the proposal for 5 no. units on a 0.0431 hectare site would equate to 125 units per hectare. Whilst high, there is no impediment in terms of maximum densities on such an inner suburban site with section 16.42 of the city development plan stating that residential density in central and inner suburban (pre-1920) areas of the city will normally be higher than 75 dwellings per hectare. Notwithstanding, and as stated above with respect to plot ratio, the acceptability or otherwise of the proposal is predicated on other planning considerations being met including the acceptability of the design solution, impact on amenities of adjoining property, the securing of adequate amenities for prospective occupants and access and traffic.

7.2. Amenities of Adjoining Properties

The potential impact of the proposed works to No.62 on party walls constitutes the substantive issue for the 3rd party appellants. As noted previously the area is characterised by a tight urban grain with small two storey dwellings on small plots, many of which have been extended into the small rear yard areas. This is the case for the properties bounding the site. Despite the accuracy of the drawings and site plans being raised with the applicant in the further information and clarification of further information requests, the appellants contend that the details remain inaccurate. Details of the extent of the rear yards of Nos. 63 Blarney Street and Nos. 1 and 2 Morroughs Hill are submitted with the appeal.

The existing rear extension to No. 62 which is proposed to be demolished has a depth of 5.55 metres and width of 3.32 metres and is constructed on the shared boundaries with No. 63 Blarney Street and Nos.1 and 2 Morroughs Hill. It has a ridge height of 5.612 metres

By reason of the site constraints including the rear return of No.2 Morroughs Hill to the south, the depth of the extension is to remain as that existing. Its width is to increase to 4.276 metres and its height is to increase 6.34 metres.

In terms of concerns about party wall stability the agent for the applicant in its appeal response states that they would consult with the affected property owners prior to commencement of work and that no works would be undertaken which would impact on the wall and their properties. However they did not take the opportunity to outline details as to how it is proposed to secure the walls, the sequencing of works or

measures to ensure the appellants' amenities and privacy are maintained during construction.

A grant of permission in this instance would not circumvent the requirement to secure the necessary consents from the affected landowners and I recommend that the services of a structural engineer be retained to ensure the structural integrity of all the walls along the shared boundary. I submit that any further issue between the property owners would constitute a civil matter best resolved through the appropriate channels. I would advise that the applicant be informed of the provisions of Section 34(13) of the Planning and Development, Act, 2000, as amended, which states that a person shall not be entitled solely by reason of a permission to carry out any development.

As noted above the proposed extension will be 0.728 metres higher than that existing. In view of the existing pattern of development, the constrained nature of the yards serving the appellants' properties and their proximity to the extension, the increase in height will not give rise to issues in terms of overshadowing over that already existing. No issues of overlooking or loss of privacy would arise.

7.3. Amenities of Prospective Applicants

The proposed development, as amended, provides for 2 no. apartments in No.62 Blarney Street and 3 no. 1 and 2 bedroom dwellings with frontage onto Leevue Terrace and Nicholas Lane, each with their own access. As per the details provided in the Housing Mix and Design Statement the units largely meet the requirements of the both the Quality Housing for Sustainable Communities and the Design Standards for New Apartments Guidelines. Storage in the apartments has not been delineated on the floor plans although it is referenced in the Housing Mix and Design Statement. I submit that this can be addressed by way of condition

I consider that the private amenity space arrangement proposed in response to the clarification of further information is not successful and results in awkward configurations resulting in questionable amenity value. In view of the site constraints and the tight urban fabric of the area I consider that a departure from the City Development requirements in terms of amenity space for terraced housing in inner urban areas as allowed for by section 16.59 of the City Development Plan is appropriate in this instance so as to allow for the redevelopment of this derelict site.

As recommended by the Area Planner a revised layout providing for small amenity spaces directly to the rear of each of the dwellings and the amalgamation of the remaining area into a communal amenity space to be appropriate. This can be addressed by way of condition.

As in the case of the amenity space I submit that a relaxation in terms of the city development plan parking requirements is entirely appropriate at this inner suburban location so as to ensure the redevelopment of this underutilised site. On street disc parking prevails along Blarney Street.

As noted, both Leevue Terrace and Morroughs Hill are gated and are closed at night so as to prevent anti-social behaviour. Each dwelling will be provided with a key to facilitate access. This is the arrangement afforded to the other dwellings accessed from the lanes.

7.4. Appropriate Assessment

Having regard to the nature and extent of the proposed development on zoned and serviced lands in an inner suburban location in Cork City it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In conclusion, I consider that the proposed development provides for an appropriate form of infill development on an inner suburban site in accordance with current city development plan requirements as set out in section 16.59, would provide for an acceptable level of residential amenities for prospective occupants and would not adversely impact the amenities of existing property. The design and finishes are considered acceptable and would not detract from the visual amenities and character of the area.

Having regard to the foregoing, I recommend that permission for the above described development be granted for the following reasons and considerations, subject to conditions.

9.0 Reasons and Considerations

Having regard to the zoning objectives for the site as set out in the current Cork City development, to the general character and pattern of development in the area and to the overall scale, design and height 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 be acceptable in terms of traffic safety and convenience and 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 as amended by the further plans and particulars submitted on the 7th day of October, 2020 and 16th day of December, 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 commencement of development and the development shall be carried out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of development a revised site layout and landscaping plan shall be submitted to the planning authority for written agreement. The layout shall delineate:
 - (a) private amenity space areas for the 3 no. dwellings directly to the rear of each dwelling,
 - (b) the boundary treatment to these spaces of no greater than 1.2 metres in height,
 - (c) the remaining area developed as a communal amenity space.

The said communal amenity space shall be landscaped in accordance with the agreed plan prior to the occupation of any of the permitted units.

Reason: In the interest of residential amenity.

3. Prior to commencement of development revised floor plans of the proposed apartment units in No. 62 Blarney Street delineating the internal storage areas as detailed in the Schedule of Floor Areas submitted on the 16th day of December, 2020 shall be submitted to the planning authority for written agreement.

Reason: In the interest of securing an appropriate standard of residential amenity for prospective occupants.

4. Works in the vicinity of the party walls bounding the site shall be supervised by a suitably qualified and experienced structural engineer, with appropriate measures to be taken for the protection of the said walls.

Reason: In the interest of protecting the amenities of adjoining property.

5. Details of the materials, colours and textures of all of the external finishes to the proposed dwellings shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. 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 and surface water management.

7. The developer shall enter into water and/or wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

9. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

10. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive and between 0800 and 1400 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 order to safeguard the residential amenities of property in the vicinity.

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. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of area(s) identified for the storage of construction materials and refuse;
- (b) Details of security fencing and hoardings
- (d) Details of the timing and routing of construction traffic to and from the construction site and to include proposals to facilitate the delivery of abnormal loads to the site.
- (e) Measures to obviate queuing of construction traffic on the adjoining road network;
- (f) Measures to prevent spillage or deposit of clay, rubble or other debris on the public road network;
- (g) Details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels;
- (h) Off-site disposal of construction/demolition waste.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

12. 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 the “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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and

disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

13. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition

Pauline Fitzpatrick
Senior Planning Inspector

May, 2021