



An  
Bord  
Pleanála

## Inspector's Report ABP-310650-21

<b>Development</b>	Two semi-detached houses
<b>Location</b>	Main Street, Carrigrohane, Ballincollig, County Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	21/40059
<b>Applicant(s)</b>	Jim O'Regan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Jim O'Regan
<b>Observer(s)</b>	Anne & Sheila Murphy Ray Murphy Margaret Murphy
<b>Date of Site Inspection</b>	19 <sup>th</sup> October, 2021
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The 0.0567 hectare site of the proposed development is located to the north of Main Street, Carrigrohane, Ballincollig in County Cork. The site comprises an undeveloped area immediately east of two semi-detached, two-storey houses which are under construction. The site is bounded to the west by a detached two-storey house and to the rear by single-storey gable-fronted houses within Manor Hill residential estate.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the construction of 2 no. two-storey, four bedroom, semi-detached houses to replace a detached house permitted under ABP-307183-20 within a revised site boundary. The gross floor area of the development would be 260.2 square metres.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 31<sup>st</sup> May 2021, Cork City Council decided to refuse permission for the proposed development for two reasons relating to injury to residential amenity and a negative impact on an adjoining structure listed on the National Inventory of Architectural Heritage and the character of the streetscape.

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

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

The Planner noted planning policy and guidelines, the NIAH status of the house to the west of the site, third party submissions, and the reports received. It was noted that the site under consideration included a strip of land to the west not formerly included in the application for the previously permitted development at this location. The complexity of the site was noted, with due regard to the limited amenity spaces to the rear of houses behind the site, ground levels and proximity to bungalows, and the proximity to an NIAH listed building with east facing gable windows (one of which is the sole window to a bedroom). The provision of two houses was seen to raise

concerns relating to visual overbearance and overlooking and it was submitted that there would be an adverse impact on the NIAH listed building by the reduced separation distance. A refusal of permission for two reasons was recommended.

### 3.2.2. Other Technical Reports

The Environment Waste Management & Control Section had no objection to the proposal subject to the attachment of a schedule of conditions.

The Area Engineer had no objection to the proposal.

The Community, Culture & Placemaking Technician had no objection subject to the attachment of a development contribution condition.

The Urban Roads & Street Design Engineer had no objection to the proposal subject to the attachment of two conditions.

The Conservation Officer considered the proposal would have a negative impact on the setting of Ard na Laoi, an NIAH listed building adjoining the site and that it was important to maintain the distance established in a previous permission issued by the Board. A request for further information was recommended seeking a separation distance not less than that previously permitted.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland stated it had no observations to make.

Irish Water had no objection to the proposal.

An Taisce submitted that there was no sufficient respectful distance between the proposed development and Ard na Laoi and that the boundary between the two sites is properly delineated to respect the grounds of Ard na Laoi.

### 3.4. Third Party Observations

Objections to the proposal were received from Anne and Sheila Murphy (Ard na Laoi), Margaret Murphy (No. 12 Manor Hill), and Ray Murphy (No. 12A Manor Hill). Concerns raised included those related to impact on a heritage building, overshadowing, and overbearing impact on adjoining property.

## 4.0 Planning History

ABP-307183-20 (P.A. Ref. 19/39009)

Permission was granted by the Board for 3 no. two-storey houses. The site area included part of the site of the proposed development and lands east of it.

## 5.0 Policy Context

I note for clarity for the Board that the site lies within the administrative boundary of Cork City Council following an extension of the city boundary in 2019. Until such time as a new Cork City Development Plan is adopted, the provisions of Cork County Development Plan and the Ballincollig Carrigaline Municipal District Local Area Plan apply to proposed development at this location.

### 5.1. Ballincollig Carrigaline Municipal District Local Area Plan 2017

The site is within the settlement boundary of Ballincollig and is in a designated existing built-up area.

### 5.2. Cork County Development Plan

#### Zoning

#### *ZU 3-1: Existing Built Up Areas*

Normally encourage through the Local Area Plan's development that supports in general the primary land use of the surrounding existing built up area. Development that does not support, or threatens the vitality or integrity of, the primary use of these existing built up areas will be resisted.

#### *ZU 3-2: Appropriate Uses in Residential Areas*

- a) Promote development mainly for housing, associated open space, community uses and, only where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area.

- b) Normally discourage the expansion or intensification of existing uses that are incompatible with residential amenity.

### **5.3. EIA Screening**

Having regard to the nature, scale and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required

## **6.0 The Appeal**

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

The grounds of the appeal may be synthesised as follows:

- The site has been enlarged by the purchase of an additional strip of land to the west.
- The front and rear building lines are identical to that of the permitted house they seek to replace. The proposal will have no greater impact on the houses to the north. The rear building line of the proposal is in line with that permitted under ABP-307183-20 and the same separation distance of 22.3m.
- The only appreciable difference between the proposal and that previously permitted is that the proposal is wider and sits closer to the house to the west.
- The previous 9.7m separation distance from the house to the west was solely a function of the site dimensions and boundary positions at the time. It does not follow that anything less than 9.7m is not acceptable. The planning authority seeks to place unwarranted restrictions by virtue of the fact that the adjoining dwelling is listed on the NIAH.
- The proposal is effectively an infill development that aligns with Council policy on infill development.
- The NIAH is an admirable initiative but the house to the west is not on the record of protected structures. Restricting development outside of its curtilage is untenable and an abuse of the planning system. The NIAH grading system

is questionable and Ard na Laoi is not of 'regional' importance and does not make a significant contribution to the architectural heritage of the region. The proposal is respectful of its setting adjacent to a 1940s house and integrates comfortably into the streetscape without negative impact on the adjoining property.

- Shadow studies are attached demonstrating that the proposed dwellings will have negligible additional impact on the adjoining dwelling over and above that already permitted.

## **6.2. Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

## **6.3. Observations**

The Observers Anne and Sheila Murphy, who reside at Ard na Laoi to the west of the site, disagree with the appellant's submission on the impact on their NIAH listed property, and consider it would have an overbearing impact and would impact on the setting of their house. It is also submitted that the proposal would result in a lack of privacy and loss of light and would create shading for the two bedroom windows on the east gable elevation of their house and for the bathroom window. The reduced separation distance and loss of screening are noted. Reference is also made to adverse impact by way of loss of light and shading to a sunroom at ground floor level on the east gable of their house, to the lack of a western boundary being indicated on the site plan, and the need for a boundary wall between the properties that protects the observers' existing hedgerow.

The Observer Ray Murphy resides at 12A Manor Hill to the rear of the site. The concerns raised relate to negative impact on property value, amenity, light and privacy by way of overlooking. The substantially lower finished floor level of his house is referenced in the context of an overbearing impact, as is the layout and footprint of his house relative to the site and other development at Manor Hill. The separation distance between the proposal and the ground floor of the observer's house is queried as is the appellant's shadow survey. The ownership of the boundary wall between the site and his property is stated to be the observer's and it

is requested that it is not interfered with. A number of drawings and associated dimensions are queried and matters pertaining to compliance with planning permission and unauthorised fencing are raised.

The Observer Margaret Murphy resides at 12 Manor Hill to the rear of the site. The concerns raised include non-compliance with conditions of a permission, traffic impact, inadequate separation distance with the property to the west, and impact on residential amenity by way of overlooking and overbearing impact.

## **7.0 Assessment**

- 7.1. I first note that the proposal seeks to replace a detached, two-storey house that was granted by the Board under ABP-307183-20 with 2 no. two-storey, semi-detached houses. The site area has been expanded in a westerly direction to incorporate a buffer area between the previous site and Ard na Laoi, a neighbouring detached two-storey house. The Board will note that the front and rear building line of the proposed semi-detached houses would be similar to that of the previously permitted detached two storey house at this location. The result is that the separation distances between the proposed houses and the properties in Manor Hill would generally remain similar. It is, thus, reasonable to determine that the impact by way of interference with privacy by way of overlooking would not be materially different. Furthermore, by retaining separation distances of some 22 metres and more between the proposed development and neighbouring houses to the rear, there would not be any discernible impact by way of potential overshadowing of these properties. I accept that the pair of semi-detached houses would be wider than the permitted detached house but this should be seen to have a marginal impact over that previously permitted. I acknowledge that the proposed development would increase the impact on the outlook from the properties to the east but I again note the adequate separation distances between the established and proposed houses and the lack of significant impact on residential amenity that would otherwise arise over that previously permitted.
- 7.2. Further to the above when considering this issue, one must truly have regard to the context of the proposed development. This is an infill site within an urban area that is

bounded by residential property. This is a proposed land use that is compatible with its 'Existing built up area' designation. The expectation for the development of such land would likely be that such land would be developed for residential use. Being in an urban area, one expects that there would be a degree of change in terms of outlook and indeed some increased overlooking of residential properties as they back on to one another. This scenario is no different for this site. This proposed development provides adequate separation distances with neighbouring properties to the rear and accommodates the needs of future occupiers of this site by way of provision of private amenity space, off-street parking, etc. I have no particular concerns about the impact of the proposed development on properties in Manor Hill. The Board will note that the houses in that estate were developed with relatively shallow rear garden / yard spaces. Notwithstanding the adverse implications this has on the developability of the lands (including the site) which lie to the south of this estate, the proposed development succeeds in maintaining reasonable separation distances such that the residential amenities of properties in Manor Hill are not significantly undermined.

- 7.3. Regarding the impact on Ard na Laoi which lies to the west of the site, I first note that the applicant has expanded the site further west over that which previously was to accommodate a detached house. Ard na Laoi is in the National Inventory of Architectural Heritage (NIAH). It is not a protected structure. The curtilage of Ard na Laoi remains unaffected by the proposed development. The dominant land use at this location is residential use. The use of this site for residential purposes would be wholly in keeping with the established properties that adjoin the site. There would be more than a four metre separation distance between the western gable of the semi-detached units and the eastern gable of Ard na Laoi. There is no discernible reason in this urban context why one would require a separation distance of greater than 9 metres as appears to be suggested by the planning authority. There would be one window at first floor level on the western elevation of the semi-detached units and it would serve an ensuite. There is no concern relating to overlooking. The development would constitute a suitable infill between the existing semi-detached houses and Ard na Laoi. It would have no notable overbearing impact on the presentation of Ard na Laoi and there would be no substantive change by way of loss of light over that which was previously permitted by the Board. As an



appropriate infill in a residential area, and one which is consistent in form, character, scale and height with the adjoining permitted semi-detached houses, I do not comprehend how the development could be seen to compromise the architectural quality and character of the streetscape.

- 7.4. Overall, I am satisfied to conclude that the proposed development would constitute a suitable infill development in a residential area.
- 7.5. Finally, I note that reference has been made by observers to non-compliance with conditions of a planning permission. This is a matter for the planning authority to address.

#### *Appropriate Assessment*

The site of the proposed development is located within the serviceable urban area of Ballincollig where there is extensive residential development. This is a site that has recently been the subject of a grant of permission for residential development. This is a location which is separated from the nearest European site, Cork Harbour SPA (Site Code: 004030), by roads, residential and other properties. Having regard to the nature, limited scale, and location of the proposed development, the serviced nature of the proposed development, the nature of the receiving environment, and the separation distance to the nearest European site, 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**

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

## 9.0 Reasons and Considerations

Having regard to the Cork County Development Plan 2014-2020, the Ballincollig Carrigaline Municipal District Local Area Plan 2017 and the pattern of development in the area, it is considered that, the proposed development, subject to compliance with the conditions set out below, would be appropriate from a land use perspective, would be capable of being accommodated within the existing streetscape, would not seriously injure the residential amenities of the area and would otherwise be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Details of the materials, colours, and textures of all 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.

3. (a) Screen walls shall be provided along the western flank boundary and the rear boundary of the site. Such walls shall be two metres in height above ground level.  
(b) Details of the layout, the materials, and external finishes of the screen walls shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of construction of the dwellings.

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

4. 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 any of the proposed dwelling houses without a prior grant of planning permission.

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

5. The entrance to the site shall remain ungated for as long as the dwelling houses are in-situ.

**Reason:** In order to avoid the need for vehicles to stand upon the adjoining regional road.

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

**Reason:** In the interest of public health.

7. 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 noise management measures, control of surface water, and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these

times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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 requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Kevin Moore  
Senior Planning Inspector

28<sup>th</sup> October 2021