



An
Bord
Pleanála

Inspector's Report ABP-311225-21

Development	Subdivision of site to construct separate house with entrance, modifications to footpath.
Location	1 Freshfields, Maypark Lane, Waterford, X91 WP2R
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	21531
Applicant(s)	Kathleen Murphy
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Kathleen Murphy
Observer(s)	None
Date of Site Inspection	7 th October 2021
Inspector	Ian Boyle

1.0 Site Location and Description

- 1.1. The subject site forms part of the rear garden of 1 Freshfields, Maypark Lane, Waterford, X91 WP2R. There is an existing dwelling on the wider residential property, which is owned by the Applicant.
- 1.2. The site is within an existing residential estate, within the suburbs of Waterford City. There is a variety of housing styles along Freshfields – which is the adjoining residential street – and the houses generally have large rear gardens, as is the case for the appeal site.
- 1.3. Maypark Lane runs along the eastern boundary of the site in a north-south direction, and there is a pedestrian footpath on the west side of this road. The grounds of Waterford University Hospital are situated to the east of the site, on the far side of Maypark Lane. There is a vehicular entrance (goods and services) for the hospital directly opposite the appeal site to the east, which is setback from road with a large splayed entrance area, allowing good visibility and sightlines for vehicles entering and leaving the hospital grounds. Maypark House Nursing Home is situated to the northeast of the site.
- 1.4. The surrounding vicinity is mainly characterised by a mix of mainly low-density, detached and semi-detached housing. Ardkeen District Centre, and Waterford city centre, are approximately 500m and 3km to the southwest and east of the site, respectively.
- 1.5. The site has a stated area of approximately 190sqm.

2.0 Proposed Development

- 2.1. The proposed development is for the subdivision of the site, and construction of a new two-storey, detached dwelling (101sqm approximately), a pedestrian entrance and modifications to footpath on Maypark Lane, connection to mains drainage, and ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

3.2. The Planning Authority refused permission on 29th July 2021, subject to 3 no. reasons:

- i) The proposed development by reason of its height, relationship of first floor windows and proximity of the dwelling to neighbouring property would constitute an over dominating presence to the adjoining residential property and result in visual obtrusiveness and loss of privacy.
- ii) The proposed development would endanger public safety by reason of being a traffic hazard considering the location of the proposed car parking opposite an entrance to Waterford Hospital, and would negatively impact road users resulting in conflicting vehicular and pedestrian movements.
- iii) The proposed private amenity space to serve the proposed dwelling falls short of the minimum requirement for a dwelling, which is set out in the Development Management Standards (Variation 1) under the Waterford City Development Plan 2013-2019 (as extended and varied), and which would result in a substandard level of residential amenity for the future residents of the proposed house.

3.3. Planning Authority Reports

3.4. Planning Reports

The Council's Planning Report forms the basis of the Planning Authority's Decision. It includes:

- A previous reason for refusal in relation to excessive height and proximity to the existing dwelling (No. 1 Freshfields) has not been overcome by the current application (Refusal Reason No. 1).
- The Council's Roads Section expressed concerns regarding the proposal in relation to traffic and public safety.

- In relation to private open space, it was noted that the development management standards allow for a reduced area of private amenity space (not less than 40 sq m). Having regard to the site's location and zoning for residential development, it was considered that a reduced private open space provision could be considered.

3.5. Other Technical Reports

Assistant Chief Fire Officer: No response received.

District Engineer (Metro Area): Verbal feedback provided (no report). Concerns expressed in relation to the proposed car parking arrangement owing to the location of the site opposite an entrance to University Hospital Waterford.

3.6. Prescribed Bodies

None. However, it is noted that the Applicant submitted a Pre-Connection Agreement enquiry with Irish Water prior to making the application, which was responded to, and indicates feasibility of connection to services without upgrades. [A copy of Irish Water letter, dated 4th March 2021, was appended to the initial planning application.]

4.0 Planning History

Two previous planning applications have been submitted to the Planning Authority seeking subdivision of the site and the construction of a dwelling to the rear of the existing house. This third application is the current appeal case. These are:

Reg. Ref. 21150: The Planning Authority refused permission on 22nd April 2021 for the subdivision of the site, the construction of a new two storey detached dwelling, a vehicular entrance onto Maypark Lane, on-site car parking space, modifications to the footpath on Maypark Lane, connection to the main drainage and associated site works. The reasons for the refusal were that the proposed development would constitute an overdomineering presence; have an unacceptable visual impact on the adjoining house; be deficient in private amenity space; and endanger public safety by reason of being a traffic hazard.

Reg. Ref. 20773: The Planning Authority refused permission on 10th December 2020 for the subdivision of the site, the construction of a new two storey detached dwelling, pedestrian entrance onto Maypark Lane, modifications to the footpath on Maypark Lane, connection to the main drainage and associated site works. The reasons for the refusal were that the proposed development would have an overdomineering presence; have an unacceptable visual impact on the adjoining house; and be deficient in private amenity space.

5.0 Policy Context

5.1. Waterford City Development Plan 2013 - 2019 (as extended and varied)

The site is zoned 'Existing Residential' under the Waterford City Development Plan 2013 - 2019 (*as extended and varied*) ('Development Plan'), which seeks *"to protect and improve existing residential areas and their amenities and provide for appropriate residential infill opportunities where feasible"*. A residential use is listed as normally permitted under this zoning objective.

5.2. Variation No. 1 – Development Management Standards to the Waterford City Development Plan 2013 - 2019

- Variation 1 sets out the development design standards for proposed residential development and replaces the respective Development Management Chapters in Chapter 13 of the Waterford City Development Plan 2013-2019.
- Section 4.2 states that the design and layout of individual dwellings should provide a high quality living environment for residents, and that designers should have regard to the targets and standards set out in the Quality Housing for Sustainable Communities Guidelines, DCHLG (2007), with regard to minimum room sizes, dimensions and overall floor areas when designing residential accommodation.
- Table 1.0 is for 'General Standards for New Residential Development in Urban Areas'. Table 2.0 sets out the 'Minimum Private Open Space Requirements for Dwelling Units'. A detached house generally requires a

minimum of 120sqm. In certain circumstances, however, the standard may be reduced for smaller houses to 40sqm, if the Planning Authority consider it acceptable.

5.3. National and Regional Planning Policy

- National Planning Framework, 2018
- Design Manual for Urban Roads and Streets, 2019
- Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009
- Urban Design Manual: A Best practice Guide, 2009
- Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007
- Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019

5.4. Natural Heritage Designations

No designations apply to the subject site.

The nearest European Site is approximately 200m to the northwest, which is the Lower River Suir Special Area of Conservation (SAC) (Site Code 002137).

The: King's Channel Proposed Natural Heritage Areas (pNHA) (Site Code 001702) is 600m to the northeast.

5.5. EIA Screening

Having regard to the nature and small scale of the proposed development, which consists of a single dwelling located in a fully serviced, urban area, and its proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for 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

A First Party Appeal against Decision to Refuse Permission has been lodged by the Applicant. The main grounds of appeal are as follows:

- The proposed development is in walking distance of Ardkeen Village Centre, is close to public transport, fully serviced and consistent with the definition of the National Planning Framework (NPF) for infill development and in accordance with various objectives to provide for compact growth.
- The proposed development is only marginally taller than that of the existing dwelling, is smaller in scale and located over 8m from the existing dwelling. In the context of a city centre development, this does not constitute over-dominance or overbearing and it would not result in any negative impact for the existing house. The principle of encouraging a more effective use of excessively sized rear gardens in an appropriate infill scenario, such as this, is encouraged by the NPF.
- There would be no directly opposing first floor windows between the existing house and proposed, new dwelling. It is noted that the proposed southwest, first floor elevation has narrow windows, however, these could be angled towards Maypark Road, or conditioned to utilise opaque glass if the Board deem it appropriate. Therefore, there is very limited potential for the proposed development to impact on the amenities of the existing dwelling.
- The proposed development will be framed against a backdrop of trees which are associated with the existing nursing home to the east, which would reduce any potential visual obtrusiveness.
- The Applicant notes that a previous, similar application (Reg. Ref. 20773) was made to the Planning Authority, which included a car parking arrangement similar to what is being sought under the current proposal. (I.e. Onstreet car parking for 2 no. vehicles, including alterations to the footpath). The Planner's Report noted that the District Engineer had no objection in principle to this, subject to no onsite car parking being provided, which could lead to

vehicles reversing onto the public road. The Applicant, therefore, submits that there is a precedent from the Planning Authority that supports the proposal to park vehicles on the street. (The Applicant references a further, similar precedent example which was permitted by the Board in 2019, ABP Ref. PL29S.302956.)

- The hospital entrance is used only for goods deliveries, is setback from the public road and used infrequently. The provision of an entrance for a new dwelling in proximity to the hospital entrance would not have the potential to create a traffic hazard.
- The Development Plan permits, in certain circumstances, a reduced private open space provision of 40sqm. The proposed development includes approximately 79.5sqm of private amenity space, which is almost twice the minimum standard, and considered to be sufficient to cater for a development of this size.

6.2. Planning Authority Response

- None.

7.0 Assessment

The main planning considerations relevant to this appeal case are:

- Residential Amenity
- Traffic and Car Parking
- Private Open Space
- Appropriate Assessment

7.1. Residential Amenity

- 7.1.1. The Planning Authority's Reason for Refusal (No. 1) states that the proposed dwelling would seriously injure the amenities of the adjoining property (No. 1 Freshfields), by way of its height, overlooking caused by the first floor windows, and visual obtrusiveness.

- 7.1.2. In terms of visual obtrusiveness, I note that the proposed house is detached, two-storeys in height and approximately 101sqm. The scale, height and building style of the development is, therefore, in keeping with the context of the established character and pattern of development in the vicinity, which generally comprises two-storey residential houses. The proposal would not be out of character with the other dwellings in the area, in my view, and neither would it result in a negative, visual impact on the streetscape on Freshfields, which is the residential estate to the southwest, or Maypark Lane, to the southwest.
- 7.1.3. The Planner's Report notes that the separation distance between the opposing structures would be approximately 8.9m. It is noted, however, given the location and orientation of the proposed dwelling on the site, that there would be no directly opposing windows between the two houses. I note, also, that as there are no windows proposed on the northwest elevation of the house, no overlooking of the rear garden associated with the original house would be possible. Whilst the distance between the houses is relatively short, I consider that the design and layout of the proposed development has taken this constraint into account, and that there would be no unacceptable visual or residential amenity impacts arising.
- 7.1.4. In order to offset any potential for overlooking the Applicant has offered to accept a condition that would require the reorientation of the first floor windows so that they could be angled and face towards Maypark Road. The Applicant has also offered to utilise opaque glass on the southwest elevation windows. I do not consider either option to be necessary. Furthermore, I consider that any reduction in the amount of daylight entering the first floor, caused by using a frosted glass treatment, or similar, would have an adverse effect on what is habitable space (i.e. living room / kitchen room), and would be inappropriate.
- 7.1.5. Of concern, however, is that the new, proposed shared boundary wall is intended to be erected very close to the rear of the existing dwelling, on its north-eastern side. The setback distance between the wall, and this part of the extant house, which is single-storey, would be approximately 900mm.
- 7.1.6. The proposed boundary treatment is a capped concrete block wall that would have a minimum height of 1.8m, as shown on Notation 6 of Drwg. No. A9.01/A ('Plans – Site / GF / A'). I consider, given the height of the wall, and its proximity to the windows on

this side of the existing dwelling, that this could give rise to a reduced amount of daylight entering the house. This would result in a potential loss of residential amenity for its inhabitants. This issue could be addressed, however, by setting back the boundary wall by an increased distance, away from No. 1 Freshfields, towards the northeast, closer to the proposed dwelling.

- 7.1.7. If the Board are minded to grant permission for the proposed development I would, therefore, recommend that a condition be included, which requires the proposed boundary wall on the southwestern side of the subject site to be moved back towards the northeast, so that it would be no closer than 2m from the existing house (an increased gap of c. 1.1m).
- 7.1.8. There would be a resulting decrease in private open space associated with the proposed, new house. However, POS provision would still be sufficient, in my view, as the design change would equate to a marginal reduction of 9.4sqm, leaving a remainder of 66.5sqm of POS, which is greater than the minimum standard under the relevant Development Plan standard. [See Section 7.3 below in this regard).

7.2. Traffic and Car Parking

- 7.2.1. The Planning Authority's Reason for Refusal (No. 2) states that the proposed development would endanger public safety by reason of being a traffic hazard. This is due to the location of the proposed car parking – which is proposed to be onstreet, and not within the appeal site – opposite an entrance to Waterford Hospital and that it would result in conflicting vehicular and pedestrian movements.
- 7.2.2. There is no written report on file from the Council's Transportation Department. However, the Planner's Report references that they discussed the proposal with the District Engineer (Metro Area), who had concerns in relation to the proposed car parking arrangement. No further information or assessment is provided regarding the proposed car parking situation.
- 7.2.3. I note that the previous application for an infill house on the site (Reg. Ref. 21150) sought permission for 1 no. car parking space within the site. In that case, the Planning Authority concluded that there was insufficient space onsite to accommodate a vehicle turning area, so that vehicles exiting the site could not do so in a forwards facing motion. Instead, vehicles would need to reverse out onto the

public road (Maypark Lane) opposite an entrance to Waterford University Hospital, and that this would lead to a potential traffic hazard.

- 7.2.4. Application Reg. Ref. 20773 proposed a similar car parking approach to that now proposed, namely the provision of 2 no. car parking spaces on the street and alterations to the existing pedestrian footpath. The Planning Authority did not raise an objection on that occasion and I note that the District Engineer supported the proposed parking arrangement.
- 7.2.5. The Board could consider refusing permission for the proposed development on the basis that there is no workable car parking arrangement. However, I consider this to be unnecessary and unwarranted, and that there are mitigating circumstances due to the site's inner urban location within a short walking distance of both a frequent public transport service and the Ardkeen/Farronshoneen District Centre.
- 7.2.6. The appeal site is approximately 550m from the Leoville Waterford Bus Stop on the Dunmore Road, which accommodates frequent bus services travelling towards Waterford City, and other destinations. The Ardkeen Shopping Centre Bus Stop is roughly 600m from the site and it caters for routes travelling in a west to east direction. The services run regularly, approximately every five to ten minutes, at peak times and during the day.
- 7.2.7. The site is also within a 6min and 8min walking time from the Ardkeen District Centre (500m) and Farronshoneen District Centre (700m), respectively. A footpath connects the site to each centre.
- 7.2.8. The Development Plan requires one car parking space for the proposed development. However, the Plan also states that in certain instances, a lesser car parking provision may be acceptable. It is considered the demand for travel generated by the proposed development would be relatively low. I also note that during a site inspection there was no obvious pressure for on-street car parking demand on the adjoining residential street network, including within Freshfields.
- 7.2.9. Therefore, I consider that it would be acceptable to provide no car parking for the proposed dwelling, which is for a relatively small two-bedroom house; on the basis it would be situated within an accessible area, proximate to an existing District Centre and frequent public transport service.

7.3. Private Open Space

- 7.3.1. The Planning Authority's Reason for Refusal (No. 3) states the proposed development would be deficient in private open space (POS) and that this would result in a substandard level of residential amenity for the future residents of the proposed house.
- 7.3.2. Table 2.0 of Variation 1 of the Development Plan sets out the requirements for the provision of private amenity space for new residential development. A detached house generally requires a minimum of 120sqm. In certain circumstances, the standard may be reduced for smaller houses if the Planning Authority consider it acceptable. However, the area may not be less than 40sqm.
- 7.3.3. The development proposes a total of 75.9sqm of POS, which is derived from two separate areas, being 9.5sqm to the north of the house in the form of a small courtyard, and 66.4 sqm towards the front. Accounting for the recommended design change in Section 7.1.5 above, which comprises the relocation of the proposed southwestern boundary wall so that it does not overly obscure daylight entering the existing house (No.1 Freshfields), there would still be approximately 66.5sqm of POS remaining (i.e. 75.9sqm – 9.4sqm.)
- 7.3.4. Given the size of the proposed house, which comprises only two bedrooms, and the provisions of the Variation 1 'Development Management Standards', which permits a relaxation in the private amenity space standards, I consider that the proposed, reduced POS is acceptable.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and small scale of the proposed development, which is for a single infill dwelling in an urban and serviced area, the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

I recommend that planning permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the *Waterford City Development Plan 2013 - 2019 (as extended and varied)*, including Variation No. 1 'Development Management Standards to the Development Plan', and the site's zoning objective ('Existing Residential'), which seeks to protect and improve existing residential areas and their amenities and provide for appropriate residential infill opportunities where feasible, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area, or of property in the vicinity, and would provide an acceptable standard of amenity for future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, on 8th June 2021, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed shared boundary wall at the southwestern boundary of the site shall be relocated so as to be no closer than 2m from the existing house (No. 1 Freshfields).</p> <p>Reason: In the interest of residential amenity.</p>

3.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The developer shall pay to the planning authority a financial contribution respect of public infrastructure and facilities benefitting 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 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 developers 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.</p> <p>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.</p>

Ian Boyle
Planning Inspector

5th November 2021