



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313298-22

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<b>Development</b>	Construction of 2 no. houses
<b>Location</b>	Kilmoney, Carrigaline, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	216709
<b>Applicant(s)</b>	Paul Harrington
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v Grant
<b>Appellant(s)</b>	Pat Murphy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	6 <sup>th</sup> April 2023
<b>Inspector</b>	Eoin Kelliher

## 1.0 Site Location and Description

- 1.1. The subject site is situated within a built-up residential area to the southwest of Carrigaline, Co. Cork. The site is accessed from Kilmoney Road Upper via a private cul-de-sac road serving 3 no. one-off dwellings.
- 1.2. The site comprises residual land located on the west side of the access road and a section of the access road extending from the site to the public road. The site has an irregular shape and a stated area of 0.23ha. There is a gentle slope across the site from east to west. The site boundaries are defined by a mix of timber post and wire fences, hedges and masonry walls. There is an open drain located inside the southwestern boundary of the site.
- 1.3. The appellant's property ('Dunmanus') is located to the northwest of the site and comprises a dormer bungalow facing Kilmoney Road Upper. There is a bungalow to the southeast of the site fronting the shared accessed road. The rear gardens of a row of houses (No. 10, 12 & 14 Forest Park) back onto the southwestern boundary of the site.

## 2.0 Proposed Development

- 2.1. Permission is sought to construct 2 no. detached single storey houses fronting the shared access road serving the site. It is also proposed to provide a marked pedestrian walkway and public lighting along the access road. Connections are proposed to the existing public water supply and wastewater network. A surface water attenuation tank is proposed to the rear of the site and would discharge to the adjoining open drain.

## 3.0 Planning Authority Decision

### 3.1. Decision

By Order dated 16<sup>th</sup> March 2022 Cork County Council decided to grant permission subject to 22 no. conditions. A condition restricting the hours of site and development works was not attached to the permission.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

#### Initial Report

The Area Planner's initial report considered the proposed dwellings acceptable from a residential and visual amenity perspective but raised concerns regarding the southern gables of the houses being located on their boundaries. Further detail was also sought in relation to the proposed public lighting and the applicant was afforded an opportunity to address third-party concerns regarding the height of the proposed northern common boundary wall.

#### Further Information

The position of the proposed dwellings on the site was adjusted in response to the Planning Authority's request. The applicant also proposed a 2.5m high rendered and capped boundary wall along the northern boundary of the site to address concerns raised in a third-party submission.

#### Subsequent Report

The Area Planner's subsequent report considered the revised position of the dwellings acceptable. Further clarification was sought in respect of the proposed public lighting.

#### Final Report

The Area Planner's final report noted that the public lighting issues had been addressed and recommended granting permission subject to 22 no. conditions.

The Planning Authority's decision to grant permission reflects the recommendation of the Area Planner.

### 3.2.2. Other Technical Reports

Area Engineer: No objection subject to conditions.

Public Lighting Engineer: No objection subject to conditions following receipt of further information and clarification of further information regarding the design of the proposed public lighting.

### 3.3. Prescribed Bodies

Irish Water: No objection.

### 3.4. Third Party Observations

A third-party observation was made by the resident of the adjoining property ('Dunmanus') to the northwest of the appeal site. The issues raised relate to the following:

- Loss of privacy due to the high-level window in the northern gable of proposed Unit No. 1 being higher than the common boundary wall.
- Concerns regarding the ridge height of the front gable of proposed Unit No. 1.
- Submitted drawings do not indicate the height of the proposed false chimney or the proposed finished landscape levels.
- Proposed common boundary wall with 'Dunmanus' would not provide adequate separation; a 2.5m high boundary rendered on both sides should be provided.
- Requests that the boundary wall be constructed prior to the proposed dwellings to maintain the privacy and amenity of 'Dunmanus' and that conditions to minimise disruption due to noise, dust, etc. and restricting hours of construction be considered.

## 4.0 Planning History

Subject Site:

**Reg. ref. 20/4452** and **ABP 309179-21**: Permission granted by the Council and subsequently refused by the Board on the 29<sup>th</sup> April 2021 for the construction of 2 no. one and a half storey type dwellings.

The reason for refusal related to the proposed raising of ground levels along the northwest and southwest boundaries of the site (to achieve required drainage falls) and insufficient information having been provided regarding the effect on the boundaries with adjacent properties. In this regard the Board raised concerns that

the proposed ground level may be above that of the boundary wall of the properties to the southwest.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2022-2028

The subject site is located within the development boundary of Carrigaline in an area zoned 'Existing Residential / Mixed Residential and Other Uses'.

Section 18.3.3 of the County Development Plan states, *inter alia*, that the objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties.

### 5.2. Project Ireland 2040: National Planning Framework (2018)

The National Planning Framework seeks to focus growth on cities, towns and villages with an overall aim of achieving compact urban growth.

**National Policy Objective 35** seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

### 5.3. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

The guidelines state that for small towns and villages to thrive and succeed their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. New development should contribute to compact towns and villages. The scale should be in proportion to the pattern and grain of existing development.

### 5.4. Guidelines for Planning Authorities on Quality Housing for Sustainable Communities (2007)

The guidelines seek to promote, *inter alia*, high standards in the design and construction of residential amenity and services in housing schemes and contain design parameters for internal accommodation.

#### **5.5. Natural Heritage Designations**

None of relevance.

### **6.0 The Appeal**

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

This third-party appeal was made by a resident of the dwelling ('Dunmanus') to the northwest of the subject site. The grounds of appeal relate to the fact that a condition restricting the hours during which construction activity can take place was not attached to the Council's decision to grant permission. The appellant is concerned that in the absence of such a condition, construction activities could have a significant impact on the residential amenity of his property.

#### **6.2. Applicant Response**

6.3. The applicant's response acknowledges that construction activities may pose a disruption to the appellant's enjoyment of his property and states that the applicant has no objection to a condition restricting site development and building works to the hours between 0800 to 1800 Mondays to Fridays, between 0800 and 1400 on Saturdays, and not at all on Sundays and public holidays.

#### **6.4. Planning Authority Response**

No further comments.

#### **6.5. Further Responses**

6.6. The appellant reiterates that he is anxious that a condition restricting construction activities to designated times be attached to a grant of permission.

6.7. The Planning Authority states it agrees with the applicant's proposal to restrict construction hours, but it will not be able to monitor compliance in this regard.

6.8. **Observations**

6.9. None.

7.0 **Assessment**

7.1. I note that the current application addresses the Board's previous concerns regarding the development proposed under P.A. reg. ref. 20/4452 (ABP 309179-21) by locating both proposed dwellings on the more elevated (eastern) end of the site, thereby negating the need for level changes along the site boundaries.

7.2. Accordingly, I consider the following to be the main issues to be addressed in this assessment:

- Site Development and Building Works
- Environmental Impact Assessment
- Appropriate Assessment

7.3. **Site Development and Building Works**

7.3.1. The grounds of appeal relate solely to the fact that a condition restricting the hours that site development and building works can take place was not attached to the Council's decision to grant permission. Having regard to the nature and scale of the proposed development and its location in a residential area, I concur with the appellant that a condition restricting the hours during which site development and buildings works take place should be attached to a decision to grant permission. I note that neither the applicant nor the Planning Authority have objected to such a condition in their responses to the appeal.

7.3.2. Accordingly, I recommend that permission be granted with a condition that site development and building works shall be carried out only between the hours of 0800 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 should

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

#### **7.4. Environmental Impact Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity / any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the development, which comprises two dwellings in a fully serviced and built-up area, and the distance to the nearest European sites and the absence of known pathways to European sites, it is considered that 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. Appropriate Assessment is not, therefore, required.

### **8.0 Recommendation**

I recommend permission be GRANTED for the reasons and considerations set out below subject to conditions.

### **9.0 Reasons and Considerations**

Having regard to the zoning of the site as set out in the Cork County Development Plan 2022-2028, and the infill nature of the site within a serviced residential area, it is considered that the proposed development would provide for an acceptable standard of residential amenity, be appropriate to the character and pattern of development in the area, and would not seriously injure the amenities of surrounding properties or endanger public safety by reason of a traffic hazard. 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 as amended by the further plans and particulars submitted on the 23<sup>rd</sup> day of December 2021 and the 1<sup>st</sup> day of March 2022, 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all external finishes to proposed dwellings, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>The works to the access road serving the proposed development including the setting out of entrances, paving and surface finishes, signage and lighting shall be carried out and completed in accordance with the requirements of the planning authority.</p> <p><b>Reason:</b> In the interest of traffic safety and orderly development.</p>
4.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>

6.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) A plan to scale of not less than 1:500 showing –</p> <p>(i) The species, variety, number, size and locations of all proposed trees and shrubs.</p> <p>(ii) Details of screen planting which shall not include cupressocyparis x leylandii.</p> <p>(b) A timescale for implementation.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 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><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant</p>

	<p>to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
9.	<p>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, 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 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.</p> <p><b>Reason:</b> 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>
10.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement of An Bord Pleanála for determination.</p>

<b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Eoin Kelliher  
Planning Inspector

18<sup>th</sup> April 2023