



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313523-22

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<b>Development</b>	Construction of a house
<b>Location</b>	Carrig Court, Ballincollig, Dublin Pike, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	2140610
<b>Applicant(s)</b>	Eoghan Hanifin
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party Appeal
<b>Appellant(s)</b>	Ross Dumigan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	15 <sup>th</sup> July 2022
<b>Inspector</b>	Susan Clarke

## **1.0 Site Location and Description**

- 1.1. The site is located in a residential area in the suburb of Ballincollie, located approx. 3km to the north of Cork City. The total site area is stated as 0.093ha. Both Carrig Court and Carrig Glen are accessed via the Dublin Hill Upper road. Carrig Court forms the western section of the estate, while Carrig Glen forms the eastern section. It is a low-density residential area that comprises a mix of single storey, dormer, and two storey dwellings on large plots. The rectangular shaped site is currently a greenfield plot that is significantly overgrown and slopes downhill from south to north. The southern boundary of the site, which fronts onto the public road is constructed with a stone wall which is broken in two parts. The site is bound by an agricultural field to the north, a dormer house and detached garage to the east and a dormer house and detached garage to the west. With the exception of the southern boundary, there is mature planting along the boundaries of the site.
- 1.2. The context of the subject site is presented in the appendix to this report which includes, maps and a number of photographs taken on the day of my site inspection.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the construction of a two-storey (4-bed) detached dwelling (205 sq m), a packaged wastewater treatment system with tertiary polishing filter, landscaping, and a new vehicular entrance onto Carrig Court.
- 2.2. Following a Request for Further Information, the dwelling's height was reduced by one metre. In addition, the proposed entrance was recessed behind the new fence line with side walls splayed along the public road to improve sightlines in both directions.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Local Authority issued a Notification of Decision to Grant Permission on 12<sup>th</sup> April 2022 subject to 24 No. standard conditions.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

The Planner's Report is consistent with the decision of the Planning Authority.

The Planning Officer considered that the proposed development in terms of the policy context and zoning objective afforded to the site under the Cork City Development Plan, 2015-2021 and stated that the principle of the development was acceptable. However, the Officer had concerns regarding the scale and visual impact of the two storey dwelling on the area and recommended that a Request for Further Information be sought in relation to six items, the first being that the proposed dwelling be amended to a dormer style dwelling. Further information was also sought in relation to the proposed boundary treatments, sightlines from the proposed vehicular entrance, and drainage details. On receipt of the RFI Response (dated 16<sup>th</sup> March 2022), the Planning Officer stated that the revised dormer would not negatively impact on the visual amenities or character of the area and recommended that permission be granted for the proposed development.

### 3.2.2. Other Technical Reports

Area Engineer: No objection subject to condition.

Development Contributions: No objection subject to condition.

Rural Water: No objection subject to condition.

Drainage: No objection.

Environment Report: No objection, subject to condition.

## 3.3. **Prescribed Bodies**

None.

## 3.4. **Third Party Observations**

Five Third-Party Observations were submitted to the Local Authority opposing the proposed development. The key points can be summarised as follows:

- Proliferation of septic tanks/treatment systems in the area.

- Proposal forms no rational building line within the estate.
- Adversely affect the amenity value of the property to the east.
- Overlooking
- Overshadowing
- Contrary to Section 3.3.1 (Infill Residential Development) of the Residential Density Guidelines for Planning Authorities 1999
- Out of character with the established pattern of development in the immediate area.

## 4.0 Planning History

### **Reg. Ref. 21/1812**

Section 96 Social Housing Exemption Certificate Reg. Ref. 21/1812: A Social Housing Exemption Certificate was issued by the Local Authority in respect of the proposal on 21st December 2021.

**Reg. Ref. 21/40333:** The Local Authority refused permission in August 2021 for an application that included the subject site and No 4 Carrig Court (to the east). The development consisted of (a) To construct a single storey Granny flat, to demolish existing garage, decommissioning of existing septic tank to be replaced by new secondary waste water treatment plant & Premier Tech Ecoflo Tertiary Filter, remove palm trees at existing entrance and reduce height of existing stone wall if required to improve existing sightlines, sub divide overall site with new 2.0m high wall. (b) To construct a new two storey dwelling with a new secondary wastewater treatment plant & Premier Tech Ecoflo Tertiary Filter and a new vehicular entrance off the estate road and all associated ancillary site development works.

The application was refused permission for three reasons relating to the excessive scale and layout of the granny flat, which would not be subordinate to the existing single storey dwelling, and the position of the two-storey dwelling along the eastern part of the site would result in injurious visual over-bearance upon the outlook of the westerly adjacent dwelling and therefore would be contrary to the Residential Density Guidelines for Planning Authorities 1999.

## 5.0 Policy Context

### 5.1. Local Policy Context

The subject site is now sited within the jurisdiction of Cork City Council, having been subject to a boundary extension / transfer with Cork County Council. The relevant development plan is the Cork City Development Plan 2022-2028, which was adopted on 27<sup>th</sup> June 2022 and came into effect on 8<sup>th</sup> August 2022.

### 5.2. Cork City Development Plan 2022-2028

The site is zoned ZO 01 Sustainable Residential Neighbourhoods which has the objective to “*protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses*”.

Section 11.139 addresses Infill Development:

*Adaptation of existing housing and re-using upper floors, infill development will be encouraged within Cork City. New infill development shall respect the height and massing of existing residential units. Infill development shall enhance the physical character of the area by employing similar or complementary architectural language and adopting typical features (e.g. boundary walls, pillars, gates / gateways, trees, landscaping, fencing, or railings).*

### 5.3. National Guidance

#### 5.3.1. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, May 2009

These Guidelines update and revise the Residential Density Guidelines for Planning Authorities 1999. The 2009 Guidelines state the following with respect to Infill Development: In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority’s views with regard to the range of densities acceptable within the area. The design approach should be based on a recognition of the need to protect

the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc. (Section 5.9(i))

#### **5.4. Natural Heritage Designations**

The closest designated site is the Cork Harbour SPA (004030), which is located approximately 5.4km from the subject site.

#### **5.5. EIA Screening**

Having regard to the nature and scale of the proposed development, comprising the construction of one residential dwelling in a suburban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **6.0 The Appeal**

6.1. A third-party appeal has been lodged by Ross Dumian of No. 1 Carriglen, Ballincollie, Dublin Pike, Cork. The grounds of appeal can be summarised as follows:

- Prior to the submission of this case, an unauthorised road entrance was opened and the existing mature trees forming the northern boundary were removed.
- Planning permission has been refused in the area in relation to flooding grounds (Ref. 04/6486) and density (Refs. 08/4691 and 096186).
- The field to the north of the site occasionally floods. The proposal could cause flooding issues for the surrounding area.
- No material change in circumstances in the last year regarding the issue of the proliferation of septic tanks/ treatment systems.
- The previous site assessment for wastewater treatment was submitted with the current application.
- The updated site assessment should have been submitted as Further information and readvertised.
- Proposal forms no rational building line within the estate.

- Adversely affect the amenity value of the property to the east.
- Overlooking and overshadowing of the primary amenity area of the dwelling to the east.
- Most of the dwellings along the entrance to the estate are single storey and dormer style dwellings.
- Contrary to Section 3.3.1 (Infill Residential Development) and Section 5.1 of the Residential Density Guidelines for Planning Authorities 1999.
- The two-storey dwelling will be out of character with the established pattern of development in the area as presently proposed, notwithstanding other two storey dwellings in the locality which are generally located in much larger sites and in different contexts along with greater distances to boundaries.
- The proposal is contrary to the proper planning and sustainable development of the area.

## 6.2. Applicant Response

The Applicant submitted a First-Party Response to the Board on 3<sup>rd</sup> June 2022.

The key points from the Response can be summarised as follows:

- The Local Authority Area Engineer raised no concern regarding the number of septic tanks in the area.
- The Planning Officer stated that the site is not located within Flood Zones A or B.
- There is no historical flood events recorded near the site.
- The established building line is adhered to. The neighbouring dwelling to the west is 8.3m from the public footpath, while the proposed dwelling is 6.5m from the footpath.
- The proposal only includes one frosted window serving an en-suite on along its eastern elevation.
- Pedestrian users passing the Appellant's front access driveway pose more of an issue in terms of loss of privacy than the proposed dwelling.

- The Appellant's own garage poses more of a risk in terms of overshadowing than the proposed dwelling.
- The revised dwelling design submitted as part of the RFI is now a 1.5 storey/dormer, which is in keeping with the existing dwellings in the estate. The most recent houses constructed are two storey.
- National Planning Policy Objective 35 encourages the use of infill development opportunities like the subject site, which is located in a well serviced location in close proximity to local schools, services and public transport links. It should be preferable to develop the site for housing rather than leave it vacant.
- The site is ideally positioned to accommodate an infill development and will enable its future user to enjoy a high quality of life.
- Irish Water are investing €9m in the upgrade of the Ballyvolane water infrastructure to support the construction of 2,500 houses.

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

No response received.

### 6.4. **Observations**

None.

### 6.5. **Further Responses**

None.

## 7.0 **Assessment**

My assessment considers the planning application as lodged with the Planning Authority de novo. Having examined the application details and all other documentation on file, inspection of the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues on this appeal are as follows:

- Principle of Development



- Impact on Residential Amenities
- Wastewater Treatment
- Other Matters
- Appropriate Assessment.

Each of these issues is addressed in turn below.

## 7.1. Principle of Development

- 7.1.1. The proposed development seeks to provide for a new two storey dwelling on an existing residential site within an established residential area. The subject site is zoned ZO 01 Sustainable Residential Neighbourhoods, which has the objective to “*protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses*”. Under this land use zoning objective residential is listed as a permitted in principle use. Furthermore, as highlighted by the Applicant, the proposed development is consistent with the National Planning Framework’s policy for infill development (Objective 35). I consider the proposed development to be acceptable in principle, subject to quantitative and qualitative safeguards in respect of design and amenity.

## 7.2. Impact on Residential Amenities

### Architectural Treatment

- 7.2.1. The proposed development includes for the construction of a two-storey, dwelling with a gross floor area of 205 sq m and overall height of 7.6m (originally 8.5m). The dwelling has a maximum length of 11.95m and a maximum width of 10.9m. A smooth plaster finish is proposed for the external walls, with an element of stone cladding to the front elevation. The Applicant argued that the reduction in the proposed height of the dwelling by one metre at RFI will result in the dwelling being a dormer style. As outlined above, Carrig Glen and Carrig Court comprise a mix of single storey, dormer and two storey dwellings. The area does not have a unique architectural style or established pattern of development. I am satisfied that the proposed dwelling will not adversely impact the on the character of the area. Due to the plot size, I do not consider the proposed dwelling to be excessive nor is it out of character with dwellings in the area. Having regard to the size of the site and the separation distance from the proposed dwelling to the neighbouring dwellings, it will not have any overbearing impacts. As

highlighted by the Local Authority, the housing estate does not have a uniform building line, due to the curved nature of the main access road. As such, the proposed development will not break an established building line. Furthermore, the proposed development will not result in significant overlooking of adjoining properties. Two small windows serving ensuites are proposed on the eastern and western elevations. The dwelling would be setback 17m from the eastern boundary and 9.8m from the western boundary. I recommend that these windows are constructed with obscured glazing. Due to the proposed boundary treatments and separation distances between the proposed dwelling and the neighbouring dwellings no significant overlooking will occur at ground floor level. In summary, I consider the design of the proposed dwelling to be acceptable at this location.

#### Overshadowing and Loss of Light

- 7.2.2. The Appellant argues that the proposed development will overshadow the primary amenity area of the neighbouring property. Having regard to the separation distances between the properties (in excess of 17m) and the proposed boundary treatments, and the scale and massing of the proposed dwelling, I am satisfied that no undue loss of light or overshadowing would occur to the neighbouring property, including No. 1 Carrig Glen. In conclusion, I do not consider that the level of overshadowing resulting from the development would unduly impact the residential amenities of these dwellings.

#### Standard of Accommodation

- 7.2.3. The proposed development involves the construction of a two storey, detached, 4-bedroomed dwelling. In terms of the standard of accommodation that the dwelling could provide, the house has a conventional layout with kitchen/lounge/dining, utility room and T.V room at Ground Floor Level and four bedrooms at first floor level. It is compliant with the Quality Housing for Sustainable Communities-Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). The dwelling is centred in the site and would be surrounded by private open space. In summary, I am satisfied that the proposed dwelling would provide future residents with an acceptable standard of accommodation.

## Conclusion

7.2.4. In conclusion, I do not consider that the proposed development will adversely impact the area's architectural character or amenities and is compliant with Section 11.139 the Development Plan. I consider that the proposed development would result in no undue overbearing impacts, overshadowing or loss of privacy on the neighbouring properties or adversely impact the area's residential or visual amenities.

### 7.2.5. **Wastewater Treatment**

The Site Characterisation Form notes that the site is located in an area with a locally important aquifer and where groundwater vulnerability is high. A groundwater protection response of R1 applies on the site. The bedrock type is noted as Ballintrasna formation. The soil typed in the area is made ground. There is mains water within one kilometre of the area. A trial hole measuring 2.2m was excavated on site as per the EPA's Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ). The water table was not encountered at this depth. Mage ground was recorded for the first metre, with silt clay underneath. A T-value of 19.97 was calculated based on tests undertaken in December 2021. Conditions were dry and firm during my site visit in July 2022. It is proposed to install a secondary wastewater treatment system and prefabricated tertiary treatment system. Details provided on the proposed site layout plan indicate that the system would comply with the EPA Guidelines in relation to minimum separation distances to features of interest. I am satisfied that the assessment and the proposed development design details comply with those required within the Code of Practice. Whilst I note the Appellant's concerns in relation to a proliferation of septic tanks in the area, there is no evidence on file that the proposal would generate a significant risk to water quality in the area. I note that the Local Authority's Rural Water Report had no objection to the proposed development. In summary, the proposed development would not be prejudicial to public health and would not be likely to cause a deterioration in the quality of waters in the area. I do not recommend that permission should be refused for reasons relating to wastewater treatment.

### 7.3. **Other Matters**

7.3.1. The Appellant states that planning applications have previously been refused permission in the area due to flooding issues and that the proposed development could

create a flooding risk. The site slopes steeply from south to north. The Carrig Court estate is elevated above the lands to the north. There are no records of flooding in the area nor is the site located in a flood zone. I am satisfied that the proposed development does not represent a flooding risk to the area.

- 7.3.2. The proposed development includes the provision of a vehicular entrance onto the public road. I note from my site visit that the stone wall along the southern boundary of the site is partially demolished at two locations. The Applicant confirmed at RFI stage that the proposed entrance would be recessed 3m from the roadside and the new fence and side walls would be splayed at 45 degree angles. I note from my site visit that the roadway is narrow but has limited traffic movements. I consider that there is adequate visibility for vehicles to enter and exit the property in a safe manner. In short, I do not consider that the proposal would result in a traffic hazard.
- 7.3.3. The Appellant raises matters relating to potential unauthorised development (construction of vehicular and pedestrian entrances) on the site. Any potential unauthorised development are matters for the Local Authority to consider. In my opinion, this matter need not concern the Board for the purposes of this Appeal.
- 7.3.4. In terms of development contributions, I am satisfied that the proposed development is subject to the payment of a contribution in accordance with Cork City Council's General Development Contribution Scheme.

The Appellant argues that the site assessment for wastewater treatment should have been submitted as part of the RFI Response and that the Statutory Notices should have been readvertised. The application was considered acceptable by the Planning Authority. I am satisfied that there is sufficient information in respect of the proposed development for the purposes of the planning application and decision.

7.3.5. **Appropriate Assessment**

The site is c. 5.4km to the closest point of the Cork Harbour SPA (site code 004030). Having regard to the nature and scale of the proposed development in an established built-up suburban area, and the separation distance to the European sites to the subject site, I do not consider that the proposal would be likely to significantly impact the qualifying interests of the European Sites during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In conclusion, I do not consider 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, subject to the conditions outlined below.

## 9.0 Reasons and Considerations

- 9.1.1. Having regard to the residential land use zoning of the site, the nature and scale of the proposed development, the pattern of development in the area, and the provisions of the Cork City Development Plan 2022-2028 including Section 11.139 (Infill Development), it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential amenities of the area or of property in the vicinity in terms of overlooking, overbearing or overshadowing impacts nor would it represent a traffic safety issue. 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 1<sup>st</sup> November 2021 and 16<sup>th</sup> March 2022 to the Local Authority, 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>
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2.	<p>The proposed windows at first floor level on the eastern and western elevations shall be constructed with obscured glazing.</p> <p>Reason: In the interest of residential amenity.</p>
3.	<p>Prior to the commencement of development, details of the materials, colours and textures of all external finishes, shall be submitted to and agreed in writing by the Planning Authority.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
4.	<p>Drainage arrangements, including the 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>The applicant or developer shall enter into water connection agreement(s) with Irish Water prior to the commencement of this development.</p> <p>Reason: In the interest of orderly development.</p>
6.	<p>The name and numbering of the dwelling shall be in accordance with a naming and numbering scheme submitted to, and agreed in writing, by the Planning Authority, prior to the occupation of the dwelling.</p> <p>Reason: In the interest of orderly street numbering.</p>
7.	<p>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 hours of working, tree protection measures, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 on</p>

	<p>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>
9.	<p>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.</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>

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Susan Clarke

Planning Inspector

9<sup>th</sup> August 2022