



An
Bord
Pleanála

Inspector's Report

ABP-315482-23

Development

Demolition of existing garage and the construction of new detached single storey dwelling along with associated site and development works.

Location

Melrose, Victoria Road, Cork.

Planning Authority

Cork City Council

Planning Authority Reg. Ref.

2241465

Applicant(s)

Edith & Finbarr Allen

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Edith & Finbarr Allen

Observer(s)

None

Date of Site Inspection

26/07/2023

Inspector

Gillian Kane

1.0 Site Location and Description

2.0 Proposed Development

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 1st December 2022, the Planning Authority issued a notification of their intention to REFUSE permission for the following reason:

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3.2. Planning Authority Reports

- 3.2.1. **Environment Report:** No objection.

- 3.2.2. **Planning Report:**

3.3. Prescribed Bodies

- 3.3.1. **Health and Safety Authority:** Does not advise against the granting of planning permission.

- 3.3.2. **IAA:** No observations

3.4. Third Party Observations

- 3.4.1. None.

4.0 Relevant Planning History

- 4.1.1. None on subject site.

5.0 Policy Context

5.1. Architectural Heritage Protection – Guidelines for Planning Authorities

- 5.1.1. This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and affecting protected structures.
- 5.1.2. Regarding development in ACA's, section 3.10.1 of the guidelines states: When it is proposed to erect a new building in an ACA, the design of the structure will be of

paramount importance. Generally it is preferable to minimise the visual impact of the proposed structure on its setting.

- 5.1.3. Where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged. The scale of new structures should be appropriate to the general scale of the area and not its biggest buildings. The palette of materials and typical details for façades and other surfaces should generally reinforce the area's character

5.2. Cork City Development Plan 2022-2028

- 5.2.1. The subject site is zoned ZO 01 Sustainable Residential Neighbourhoods, with the stated objective to protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.
- 5.2.2. The subject site is located within the **Victoria Road ACA**. Part 1 of Volume 3 of the City Development Plan refers to ACA's. **Section 1.232** describes the Victoria Road ACA: This group includes houses in Grand View Terrace, Woolacombe Place, Park Villas, Parkhurst, Victoria Road, Lansdowne Villas and Park View. They are a mixture of house types comprising detached, semi-detached and terraced buildings and vary from two-storey to three-storey in height, some with attics. They are significant as a group of late 19th century houses retaining their original form and features and provide the area with a distinctive quality. Although the houses that make up this ACA show a variety of styles and forms they have an overall architectural coherence because of the shared elevational treatment and the brick and stone front walls with attractive ironwork which give a unified expression to the road.
- 5.2.3. **Section 8.36:** New development in Architectural Conservation Areas should have regard to existing patterns of development, the city's characteristic architectural forms and distinctive use of materials. However, it is expected that new development should generally reflect contemporary architectural practice, and not aim to mimic historic building styles.
- 5.2.4. **Objective 8.20** Historic Landscapes Cork City Council will ensure that the designated and undesignated historic landscapes and gardens throughout the city are protected from inappropriate development and enhanced where possible

- 5.2.5. **Objective 8.23** Development in Architectural Conservation Areas: Development in Architectural Conservation Areas should have regard to the following:
- a. Works that impact negatively upon features within the public realm, such as stone setts, cobbles or other historic paving, railings, street furniture, stone kerbing etc. shall not be generally permitted;
 - b. Design and detailing that responds respectfully to the historic environment in a way that contributes new values from our own time. This can be achieved by considering layout, scale, materials and finishes and patterns such as plot divisions in the surrounding area;
 - c. Historic materials and methods of construction should be retained and repaired where this is reasonable, e.g. historic windows and doors, original roof coverings, metal rainwater goods should be retained along with original forms and locations of openings etc;
 - d. Repairs or the addition of new materials should be appropriate and in keeping with the character of the original structures.

- 5.2.6. **Objective 8.24** Demolition in Architectural Conservation Areas Demolition of structures and parts of structures will in principle only be permitted in an Architectural Conservation Area where the structure, or parts of a structure, are considered not to contribute to the special or distinctive character, or where the replacement structure would significantly enhance the special character more than the retention of the original structure.

5.3. **Natural Heritage Designations**

- 5.3.1. Cork Harbour SPA (004030) is 1.8km to the south-east.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. An agent for the applicant has submitted a first-party appeal against the decision of the Planning Authority to refuse permission. The submission provides detail of the site location and description, the nature of the proposed development, the planning authority assessment and decision, lengthy wider area planning history and national and local planning policy.

- 6.1.2. The grounds of the appeal can be summarised as follows:

- The subject site is zoned. All national and local planning policy identifies the development of infill sites as opportunities for the provision of housing. It is Government policy to consolidate residential growth within existing urban settlements, meaning residential development can be supported by existing services and infrastructure, a reduced need for the development of greenfield sites, urban sprawl and ribbon development and better access to existing services and facilities and more sustainable commuting patterns. This is set out in detail in section 2.6 and national policy objective 11 of the National Planning Framework.
- The subject site is located in an established built-up residential area in close proximity to existing amenities facilities services and public transport.
- Paragraph 11.139 of the Cork City Development Plan refers to development on infill sites. The development of small underutilized urban sites within the city while not impacting significantly on the overall population targets, can make a contribution to the continued durability of established urban areas through revitalizing and sustaining population levels.
- The proposed development meets all the qualitative and quantitative standards for new housing set out in departmental guidelines.
- The proposed development has been designed to mitigate potential negative impacts on existing neighbours. The Planning Authority did not raise a concern with this aspect of the proposed development.
- The proposed development is entirely in keeping with the residential character of the existing area. The subject site is of adequate size to accommodate the new dwelling and provide a satisfactory curtilage to the existing dwelling. It is one of only two properties within the ACA with such space.
- Notwithstanding the inner urban location of the subject site no overshadowing arises.
- There is no view of the new dwelling from the public road. It is located to the rear, set back by 65m and screened on all three sides by established hedging and semi mature vegetation. The height of the proposed single story dwelling will not exceed heights already permitted and established within the area.

- The urban roads report requesting clarity on the route and access dimensions may not be aware of the proposal to park to the front or that cars are already parked to the rear of the existing dwelling. The width of the site entrance is 4m. The width of the existing gravel path to the rear is 2.5m. The width between the existing house and the side boundary is 3.27m- 3.93m.
- There is no basis for reaching the conclusion that the proposed new dwelling would have a negative impact on either the amenity of the existing dwelling or that of the neighbouring properties.
- An Architectural Heritage Impact Assessment is submitted with the appeal.
- It is noted that the Planning Authority's conservation report inaccurately refers to the Blackrock ACA. The site is located within the Victoria Road ACA. The Blackrock Road ACA is located adjoining to the east and both ACA's bear similarities in their focus along the public road running from Victoria Road roundabout to Blackrock castle. If the proposed development was assessed against the objectives for the adjoining ACA, the report and its conclusions must be considered flawed.
- The Planning Authority did not visit the site. The Conservation Officer could not have carried out any detailed site inspection, did not view the rear garden or the existing rear extension of the house. The robustness of the Planning Authority's conservation assessment is called into question. It is submitted that this wholly undermines the rationale set out in the conservation report and the conclusion.
- A detailed site inspection would have provided a more informed and clearer understanding of the existing perspectives and relationships between the garden, the rear extension of the house and the public roadway to the front.
- There have been a large number of planning applications to modify or extend dwellings on Victoria Road. 32 no. of these applications were granted permission. Further, a number of dwellings were modified by way of exempted development. Photographs submitted.
- The main dwelling was extended to the rear in the early 1960s. This was not acknowledged by the Planning Authority.

- Development to the rear of dwellings in the ACA has been permitted and carried out.
- In November 2021, to the rear of the ACA, new residential development with access through Parkhurst was permitted. Notwithstanding that this site is outside of the ACA, the key planning and conservation consideration was the impact on the character of the ACA. The Planning Authority concluded that no undue impacts arose.
- While the subject proposal is for a new dwelling rather than an extension, this difference in itself could not sustain a reason for refusing permission. It is submitted that it is not the principle of development to the rear of dwellings in the ACA that is contestable, rather it is the extent of development proposed and its potential for impacts on the special character of the ACA that merits scrutiny.
- It is submitted that the large size of the subjects is unique, with only one other site capable of such development – Bellavista. The Planning Authority have accepted the potential for a single dwelling to the rear of this property.
- The proposed development will allow the owners of the main dwelling ‘Melrose’ to downsize to the new dwelling and their daughter will occupy the main house. It is not intended to sub-divide the site, allowing for an element of co-living between the two properties. This will not cause a negative precedent.
- In the adjoining Blackrock ACA, permission has been granted for dwellings to the rear of Cleve House (reg. ref. 22/40938), Menloe House (PL28.248168), Ashton Park House (reg. ref. 16/36855), Rose Lodge (reg.ref. 16/36839), 144 Blackrock Road (PL28.246637). The ACA designation did not hinder the backland development of these sites.
- The submitted AHIA concludes that the proposed new dwelling will be accommodated in a respectful and responsive manner and will not be unfavourable or harmful to the ACA or the main dwelling.
- The proposed development does not involve any works to the historic features of the main dwelling. The appellant fails to see why objective 8.24 was stated

in the reason for refusal when the Planning Authority agreed the demolition of the garage was acceptable.

- Likewise Objective 8.20 is not relevant as the rear garden has been extensively redeveloped.
- Objective 8.23 has been fully complied with: no works to the front elevation, new dwelling will not be visible, it is modest in scale and does not detract from the existing character of the area.
- In conclusion, the Board is requested to grant permission.

6.2. Planning Authority Response

6.2.1. None on file.

6.3. Observations

6.3.1. None one file.

6.4. Further Responses

6.4.1. None on file.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Impact on Architectural Heritage

7.2. Principle of Development

7.2.1. The proposed development of an additional residential unit on lands zoned for residential development and on serviced lands in close proximity to the city centre, is acceptable in principle.

7.2.2. I note that the Conservation Officers report refers to Blackrock ACA rather than the correct Victoria Road ACA. The appellant states that had the proposed development been assessed against the objective for the Blackrock ACA, the decision should be considered void. The Board will note that the Conservation Officers report refers to development plan objectives for ACA's in general rather than location specific ACA objectives. The planning report and the reason for refusal refer to the correct ACA, so I am satisfied that the Planning Authority assessment is robust.

7.3. Impact on Architectural Heritage

- 7.3.1. I note that the main dwelling on site is not a Protected Structure and does not carry the weight of protection such a designation would provide. The curtilage of the property is not protected, nor are the individual features of the dwelling. Only the role the dwelling plays within a larger Architectural Conservation streetscape.
- 7.3.2. The Planning Authority's single reason for refusal refers to the impact of the proposed development on the ACA and the architectural heritage of the main dwelling on site. The appellant submitted an Architectural Heritage Impact Assessment with the appeal. The report notes that Melrose is not a Protected Structure but is listed on the NIAH and within the Victoria Road ACA.
- 7.3.3. Describing the Victoria Road ACA, Section 1.232 of Volume 3 of the Development Plan notes the "mixture of house types comprising detached, semi-detached and terraced buildings and vary from two-storey to three-storey in height, some with attics" and that while there are a "variety of styles and forms, they have an overall architectural coherence because of the shared elevational treatment and the brick and stone front walls with attractive ironwork which give a unified expression to the road"
- 7.3.4. The Board will note that no works are proposed to the main dwelling or the boundary treatment on site, nor will the proposed dwelling be visible from the public road, notwithstanding the higher ground level to the rear. I am satisfied that the proposed development will not impact on the key architectural features that comprise the unique nature of the Victoria Road ACA.
- 7.3.5. The subject site is not located in an Historic Landscape and therefore Objective 8.20 is not relevant. Objective 8.24 refers to demolition of structures and parts of

structures in ACA's. The proposed demolition of the modern garage has no bearing on the architectural heritage of the main dwelling. It does not contribute to the special or distinctive character of the dwelling. Therefore, Objective 8.24 is not relevant to the proposed development.

- 7.3.6. Objective 8.23 of the development plan requires that development in ACA's have regard to a specific list of criteria. They refer to features in the public realm, historic design and detailing, historic methods and materials, and the repair or addition of new materials. The proposed development of a single storey dwelling to the rear of the main NIAH listed dwelling will not negatively impact on the public realm as it does not involve works in the public realm and will not be visible from the public realm. Being a new addition of contemporary design, historic materials and methods are not relevant. Only the second criteria (b) is relevant to the proposed development – namely the use of design and detailing that responds respectfully to the historic environment “in a way that contributes new values from our own time”. The proposed dwelling is of contemporary design, with mono pitched roof, stone clad elevation and zinc clad roof. The dwelling will clearly read as a new entry in the streetscape, one that does not compete with the NIAH listed structures on Victoria Road or the overall character of the ACA. I am satisfied that the visual impact of the proposed dwelling will not detract from the architectural character or the architectural integrity of the streetscape. I am satisfied that the proposed development is not contrary to Objective 8.23 of the development plan.
- 7.3.7. The appellant states that the garden will not be subdivided, as it will be retained within the family. The plot will however be formally divided, with a new timber post and wire fencing separating the new house from the main house. This does have an impact on the architectural integrity of the ACA. The proportions of the house and garden were designed in tandem, with the large garden reflecting the large house. That said, the garden is not landscaped other than a regular suburban garden, nor does it, in its current form provide any architectural significance or merit to the dwelling. Gardens are now generally smaller and more intensively used. It is likely that the rear section of the subject site is less used than the large front garden within which parking for multiple cars is available. In principle, I consider the subdivision of the garden to be acceptable.

7.3.8. The proposed dwelling is in keeping with the principles of new development in ACA's as advised by the Architectural Heritage Protection Guidelines, is in accordance with the development objectives in the development plan, provides a new residential dwelling on zoned and serviced lands in the city. I am satisfied that the proposed development is in accordance with the proper planning and sustainable development of the area.

7.4. Appropriate Assessment

7.4.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area and proximity to the nearest European site, no appropriate assessment issues arise and 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.

8.0 Recommendation

8.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions:

9.0 Reasons and Considerations

9.1.1. Having regard to the residential zoning for the site of the proposed development, the pattern of development in this Architectural Conservation Area, the design and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of architectural heritage and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out 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
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	<p>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>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1, Class 3, Class 5 or Class 9 of Schedule 2, Part 1 of those Regulations shall take place without a prior grant of planning permission.</p> <p>Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the proposed dwelling</p>
3.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a proper standard of development.</p>
4.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development</p> <p>Reason: In the interests of visual and residential amenity</p>
5.	<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 the commencement of development. This plan shall provide details of intended access arrangements and of construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of amenities and public safety.</p>

6.	<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 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>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>
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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.

Gillian Kane
Senior Planning Inspector

04 December 2023

Appendix 1 - Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	New residential unit to rear of existing dwelling		
Development Address	Melrose, Victoria Road, Cork		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes Y No No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	NO	Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
No		Comment (if relevant)	
No	500 units	Single dwelling	Conclusion
Yes	N/A		No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____