



An
Bord
Pleanála

Inspector's Report

ABP-315722-23

Development	Construction of house
Location	Dunavon, 10 Saint Clare's Avenue, College Road, Cork City
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2241529
Applicant(s)	Eugene Foley
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Eugene Foley
Observer(s)	Mairead Harrington Noel Doherty Anne Marie & Andrew Behan Catherine Clancy Magazine Road and Surrounding Areas Residents Association
Date of Site Inspection	12 th October 2023
Inspector	Joe Bonner

1.0 Site Location and Description

- 1.1. The site of the proposed development is located in the rear garden of an existing two storey semi-detached house on the eastern side of Saint Clare's Avenue, c150m south of the Bon Secours Hospital and c250m of the UCC campus c2km west of Cork City Centre. Magazine Road is located c80m to the south.
- 1.2. The proposed access to the site would be via the existing vehicular gated access that runs along the southern side of the existing house, No. 10 St Clare's Avenue. At its narrowest, between the existing house and the boundary wall with No 12 to the south, the access is only 2.625m in width. The access would take the form of a right of way and would run for a distance of 38m from Saint Clare's Avenue of which c18m would run along the side of the existing house that has recently been extended to the rear.
- 1.3. The overall landholding including No 10 runs in a southwest to northeast direction and the ground levels are stated to rise by 1.89m from the public road through the retained grounds of the existing house, including its retained rear garden and a parking area that is under construction, to the start of the site from where the land rises by a further 3m to the back boundary.
- 1.4. The site is 0.0298ha in area, has a width of 9.671m and a depth of 31.251m. The proposed bungalow would have a floor area of 110sqm and would run south west to north east and run parallel to the side boundaries, with a separation distance of 0.9m from the boundaries to the north west and south east.
- 1.5. There is a retaining wall at the front of the site that would define the site boundary. A parking area has been developed immediately adjacent, on the lands retained within the grounds of the existing house.
- 1.6. The site abuts the undeveloped rear gardens of neighbouring houses to the north and south, which consist of similar sized plots in terms of width and depth, while a large area of open space is located immediately to the east in the form of the attendant grounds/gardens of the Bon Secours Sisters Convent (Cnoc Mhuire).

2.0 Proposed Development

- 2.1. The proposed development as applied for consists of the following:

- Permission to construct a new bungalow dwelling house in the rear garden of existing dwelling and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. A decision to refuse permission was issued by Cork City Council on the 9th of January 2023, for a single reason, which referred to several issues, being:

- Having regard to the pattern of development in the area, the development as proposed by reason of its scale, layout and design would adversely affect the character of the Magazine Road Architectural Conservation Area.
- The development would seriously injure the residential and visual amenities of the adjoining residential dwellings by reason of proximity to the site boundaries, visual dominance and overbearance and would depreciate the value of property in the vicinity.
- The proposed development would set an undesirable precedent for similar type developments in neighbouring rear gardens.
- The development would be contrary to the objectives 8.20, 8.23 and 11.5 of the Cork City Development Plan 2022-2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The report of the Assistant Planning Officer is the basis for the decision to refuse permission and the main concerns raised are reflected in the wording of the refusal reason. In addition, it stated:

- The site is narrow and elevated, and the proposed development would be prominent and visible from adjoining properties;
- The building type is contrary to the established pattern of development in the ACA, with the gable orientated towards St. Clare's Avenue.

- The proposed parking spaces are outside of the site boundary, are not considered acceptable and exceed the maximum Development Plan parking standards.
- No boundary treatment is proposed to the south of the site.
- Senior Executive Planner – concurred with the Assistant Planner’s recommendation to refuse permission.
- Senior Planner – concurred with the Assistant and Senior Executive Planner’s recommendations to refuse permission.

3.2.3. Other Technical Reports

- Drainage Division – No objection subject to conditions.
- Environment Waste Management and Control – No objection subject to conditions.
- Urban Roads & Street Design – Further Information recommended regarding 1) the ability to carry out turning manoeuvres for the proposed car parking at the rear of the existing dwelling and 2) demonstrate that the proposed access to the south of the existing dwelling is sufficiently wide to accommodate 2 passing vehicles and/or passing bays or other measures to allow 2 vehicles to safely pass.
- Development Contributions Section – No objection subject to conditions.
- Part V – An application for a Certificate of Exemption is included on the online planning file. On 4th April 2023 Cork City Council refused the Certificate of Exemption indicating that it was refused by default as the applicant failed to respond to a request for further information.

3.3. **Prescribed Bodies**

- Irish Water – December 2022 - No objection subject to conditions.

3.4. **Third Party Observations**

- 3.4.1. Six third party submissions were received by the Planning Authority in respect of the application, from:

- 1 Noel Doherty, 11 Coolgarten Park, Magazine Road
- 2 Anne Marie Behan, 14 St Clare's Avenue
- 3 Mairead Harrington and John Desmond, 8 St Clare's Avenue
- 4 Catherine Clancy, St Brendan's, Magazine Road
- 5 Aidan Cahill, Secretary of Magazine Road and Surrounding Areas Residents Association (plus signatories)
- 6 Aisling Sisk, 4 Wellington Square, Magazine Road

3.4.2. With the exception of Aisling Sisk, the five other observers also submitted observations to the Board in response to the grounds of the first party appeal.

3.4.3. The issues raised by observers related to the application can be summarised as follows:

Overdevelopment and Overlooking

- The proposed development is overdevelopment and the amount of open space proposed is insufficient to provide the necessary amenities for a two-bedroom bungalow.
- The site is elevated, is very close to the boundaries to the southwest and northeast and will overlook neighbouring properties.
- With 14 potential occupants between the two houses, a dedicated bin storage area would be needed, but is not shown on the plans.
- It would set a precedent for similar proposals on the street.

Biodiversity

- Small areas of green space are of great importance and the loss of 80% of the existing green space in the garden of the existing house is contrary to objectives of the Development Plan. The balance of the retained open space will be used for parking cars.
- The site is home to birds and mammals including bats, which are protected under EU legislation and Council policy.

Parking and Access

- Four additional parking spaces on the overall site in addition to two in the front garden of the existing house will affect immediate neighbours, pedestrian and traffic safety through noise, light and air pollution and turning movements. Each house on the road can be issued with three on street additional parking permits, meaning the overall site could have up to 9 parking spaces. This is contrary to Council policy to reduce the number of cars in the city.
- Access for emergency vehicles would not be possible.
- Saint Clare's Avenue already suffers from major traffic congestion and a lack of parking spaces.
- Footpaths are already too narrow and cannot cope with any more development.

Architectural Conservation Area

- The development would materially affect the character of the ACA and is located adjacent to a building on the NIAH.
- The siting and design are out of context with the layout of adjacent properties.

Unauthorised Development / Incomplete Application

- Permission should be refused because works have been progressing on the main house to convert it to a HMO (House of Multiple Occupancy) including a dormer extension to the attic, as well as preparations for what appears to be a substantial extension at the rear and the positioning of concrete blocks for what can only be intended as foundations for the proposed house.
- What works on the existing house constitute a massive development.

Use

- It is likely to be used along with the existing house as a house of multiple occupancy (HMO), the impacts of which are vastly different to houses used as single family homes.
- The overall site should have a Management Plan, a Waste Disposal Plan and a Health and Safety Plan
- The area is already inundated with student accommodation giving rise to significant stress, parking problems, excessive noise and antisocial behaviour.

- The use would be contrary to Council policy regarding the creation of a liveable 15 minute city and a grant of permission will further erode the number of permanent residents in the area.

4.0 Planning History

- 4.1. There is no site-specific planning history and there is no relevant history on any adjacent sites.

5.0 Policy Context

- 5.1.1. The relevant Development Plan is the Cork City Development Plan 2022-2028 that came into effect on the 8th of August 2022. Variation No 1 regarding 'Car Parking Standards' was adopted on 8th May 2023.
- 5.1.2. The site is zoned 'ZO 1 – Sustainable Residential Neighbourhoods' with a stated objective 'to protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses'.
- 5.1.3. While the Development Plan supports the concept of infill housing on small sites, ZO 1.1 provides that 'The provision and protection of residential uses and residential amenity is a central objective of this zoning', ZO 1.2 states that 'Development in this zone should generally respect the character and scale of the neighbourhood in which it is situated. Development that does not support the primary objective of this zone will be resisted'.
- 5.1.4. Chapter 11 'Placemaking and Managing Development' provides the policy context and Objective 11.3.d - Daylight Sunlight and Overshadowing states 'The design of developments should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst, minimising overshadowing and maximising the useability of outdoor amenity space'.
- 5.1.5. Objective 11.4, 'Daylight Sunlight and Overshadowing (DSO)' requires that 'All habitable rooms within new residential units shall have access to appropriate levels of natural / daylight and ventilation'.
- 5.1.6. Under the heading of 'Separation, Overlooking and Overbearance' sections 11.100 and 11.101 note that 'Privacy and overlooking are important for quality of life' and

that 'all development proposals will be required to demonstrate that they have been designed to avoid overlooking'.

5.1.7. The site is located in Parking Zone 2 which applies to 'areas accessible to mass transit alongside public transportation corridors' where the maximum number of parking spaces permitted for 1–2-bedroom houses is 1, while houses with 3 or more bedrooms can have a maximum of 2 parking spaces.

5.2. Reference is made in the refusal reason to three Objectives being 8.20, 8.23 and 11.5, which are:

- Objective 8.20 - Historic Landscapes
- Objective 8.23 - Development in Architectural Conservation Areas
- Objective 11.5 - Private Amenity Space for Houses, which states that
 - Houses should provide a private garden / terrace, of adequate size and proportions for the size of house proposed. The private outdoor areas should allow space for outside dining and / or clothes drying, with reasonable circulation. Private open space for houses should aim to be at least 48 sqm. However, it may be acceptable to provide a smaller area where it can be demonstrated that good quality, useable open space can be provided on site.
 - It also lists factors that will be material in assessing whether adequate space has been provided including 'the degree to which enclosure and overlooking impact on the proposed new dwellings and any neighbouring dwellings'.

University College Cork (UCC), College Road and Magazine Road ACA

5.2.1. The site lies within the 'University College Cork (UCC), College Road and Magazine Road ACA', which describes the area as 'institutional in nature' and the primary focus of the ACA is on those buildings. Section 1.224 states that 'College Road acts as the main thoroughfare with Magazine Road acting as the secondary thoroughfare, and the two are connected by relatively narrow roadways'. Section 1.229, referring to houses such as 10 Saint Clare's Avenue states that 'the remaining buildings in this ACA are primarily 20th century dwellings which follow the original street pattern of College Road and Magazine Road, whilst also lining the throughways between these

main thoroughfares. It also notes at 1.230 that 'The external condition of many dwellings in the area, commonly student accommodation, is substandard and the continued maintenance of these buildings is required'.

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located within any designated European sites. The nearest Natura 2000 sites are Cork Harbour Special Protection Area (SPA) (Site Code: 004030), located approx. 4.3km to the southwest at Rochestown; and, the Great Channel candidate Special Area of Conservation (cSAC), c11km to the east.

5.4. EIA Screening

- 5.4.1. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The applicant has appealed the decision to refuse permission and the grounds of appeal can be summarised as follows:

- The development as proposed by reason of its scale, layout and design would not adversely affect the character of Magazine Road Architectural Conservation Area.
- The proposed development is a bungalow within a long rear garden more than 41 metres from the road at Saint Clare's Avenue and would only be visually apparent when positioned at the driveway entrance. It would not be otherwise visible.
- The proposed bungalow would not be visually dominant, would not be overbearing on other properties in the area and would not depreciate the value of property in the vicinity.

- The mature boundaries to the north, south and east ensure that the house will not be visible from adjoining properties and the appellant will provide a declaration that the boundaries will be maintained.
- There appears to be concerns regarding the nature of the occupancy and potential risk of disturbance and antisocial behaviour within the area. The dwelling is for professional/ family occupancy only, and a declaration to this effect can be provided if required.
- There is a need for domestic accommodation in this central area.
- Precedents exist for similar developments in long rear gardens including Dunlocha Cottages. These precedents have not devalued or had overbearing effects on adjoining properties.
- A series of photographs showing mature planting on the site boundaries forms part of the appeal.

6.2. Planning Authority Response

- None.

6.3. Observations

6.3.1. Five observations were received by the Board in respect of the appeal. The five observers had previously made submissions in respect of the application. They are:

- 1 Noel Doherty
- 2 Andrew and Anne Marie Behan
- 3 Mairead Harrington
- 4 Catherine Clancy
- 5 Aidan Cahill, Secretary of Magazine Road and Surrounding Areas Residents Association

6.3.2. Several of the observations state that they have been advised by Cork City Council that their original submissions/observations to the Planning Authority have already been forwarded to the Board, so the issues raised in the initial observations to the

Planning Authority, as summarised in section 3.4.3 above, should be read together with the new issues in 6.3.3 below to form the entirety of the observations on the application.

6.3.3. **New issues raised in Observations**

- The rear of the existing house has been extended into the rear garden since the original application was submitted on what was shown on the drawings to be a retained garden. A car park has also been built within the retained rear garden. The drawings before the Board are not a true version of the site and a misrepresentation of how the site currently looks.
- The extensions to the existing house at ground and roof/attic floor level measure in excess of 50sqm, are not exempt from planning permission and are subject to ongoing enforcement action by the planning authority. The unauthorised extensions diminish the space available for the construction of the proposed development.
- Photographs of the existing house pre and post extensions demonstrate the extent of additional works.
- The remaining garden will provide insufficient open space for both the existing and proposed houses on the site and should be refused in the interests of the future occupants of both houses.
- The nature of the site requires a retaining wall to create the elevated foundation, and the house will have a height of 5.025m, meaning it will unduly dominate and overlook adjoining properties.
- The access and siting are out of character with surrounding properties and do not respect and will diminish the streetscape of the ACA.
- The development is contrary to Paragraph 3.45 of the Development Plan which states that 'Retaining and adapting, as appropriate, existing housing stock is important to ensure that homes meet the requirements of modern society whilst still ensuring that this is not done at the expense of unreasonable impact on adjoining properties.'
- The development is contrary to Development Plan Objectives regarding Placemaking, Built Heritage and Culture.

- In the appeal, the developer declared the development would be a professional/family residence, but it is not clear how the proposed 2 bed development, would be suitable for family use and a declaration would do nothing to address the loss of amenity or the precedent that it would set.
- The applicant's reference to precedents at Dunlocha Cottages in Blackrock, are without merit, as it is not an ACA nor is it comparable in terms of pedestrian and vehicular traffic. Developments at Dunlocha Cottages go back 30 years and the most recent application there was refused.
- It is not clear who needs this type of development other than the applicant.

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the information received in relation to the appeal, having inspected the site, and having regard to the relevant planning policies, I am satisfied that the main issues in this appeal are those raised in the Planning Authorities reason for refusal, the grounds of appeal and the third party observations and can be dealt with under the following headings:

- Principle of Development
- Proposed Development
- Impact on Character of ACA
- Impact on amenities of existing dwelling on site
- Parking and Turning Movements
- Bats
- Precedent
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The site is zoned 'ZO 1 – Sustainable Residential Neighbourhoods' with a stated objective to protect and provide for residential uses and amenities, while ZO 1.3 states that primary uses in this zone include residential uses. ZO 1.2 states that 'Development in this zone should generally respect the character and scale of the neighbourhood in which it is situated and that development that does not support the primary objective of this zone will be resisted'
- 7.2.2. Therefore, the principle of residential development on the application site is acceptable, subject to the impacts that it may have on residential amenities, as well as on the character and scale of the area, which are considered below.

7.3. Proposed Development

Site, access and circulation

- 7.3.1. The site is long and narrow with the site of the proposed dwelling starting at a distance of 38.229m from the public road, while also rising uphill by 5.24m from the road to the rear boundary. The proposed finished floor level would be 2.47m above the ground floor level of the existing house and as a result, would read as the first floor of a two-storey house, rather than a single storey house.
- 7.3.2. The proposed retaining wall at the front of the site, for which permission is sought in this application, has already been constructed to define the site boundary. The ground level at the front of the site would be filled to create the front patio, the proposed footpath level of 1.13m and a finished floor level of 1.33m above the level of the parking area.
- 7.3.3. Access to the site would be by steps only and not by a ramped access, despite several references in the proposed floor plans to the access ramp and internal doors and fixtures being suitable for wheel chair access.
- 7.3.4. At the rear of the proposed house, a second retaining wall of 1m in height would be required, while it will also be necessary to excavate a large section of the site, to facilitate the proposed floor level. A section through the site has been provided indicating that the existing ground levels would be lowered by as much as 2m to facilitate the proposed development.

Proximity of Side Elevations to boundaries

- 7.3.5. The two sides elevations of the house, which would be 16.525m in length, would be located 0.9m from the third-party boundaries, and would include only windows for the two proposed bedrooms, at the point where the excavations along the side boundaries would be deepest, as well as two windows on each side of the living/dining kitchen area, although the living/dining/kitchen area is well served with windows on the front facing the rear of the existing house to the west. The windows for two en-suites, one w.c. and the utility room would also be located on the side elevations, and all of these windows would have limited to no outlook and limited light due to proximity to the site boundary, the proposed floor level relative to the ground level of the adjacent properties, and the presence of mature vegetation on those boundaries. The bedroom on the northern elevation would never receive direct sunlight, and there are no windows on the eastern elevation. Overall, I consider that the internal amenities of future occupants would be negatively impacted by reason of proximity of the proposed development to the side boundaries and the difference in levels between the existing adjacent properties and the proposed development.
- 7.3.6. The impact of the proposed excavations that would be necessary to facilitate the proposed development was not addressed in the application, any of the third-party submissions or in the reports of the planning authority in the context of the northern and southern boundaries, but needs to be addressed in the context of the overall proposed development rather than as a stand-alone issue.
- 7.3.7. No information has been provided in respect of 1) the quantity of earth that would be required to be removed from site to facilitate the floor levels 2) retaining walls that would be required along the sides of the site, adjacent to the third-party boundaries to the north and south, as the excavation would extend over a distance of c19m and would be as deep as 2m at the rear of the site.
- 7.3.8. The only information provided appears to be text on several of the drawings that states 'all works on adjoining properties and common boundaries to be agreed with adjoining owners before work commences'. In contrast, the drawings clearly indicate that retaining walls are to be installed at the front and rear of the proposed house.
- 7.3.9. Based on the lack of information provided in the application and appeal regarding the nature of the subsoil, bedrock and the water-table on the site and the potential

negative impacts of excavating the site to a depth of up to 2m, I am not satisfied that the proposed development does not pose a danger to the integrity of third party properties, by reason of potential collapse of property boundaries or the collapse of soils into the site from the adjacent properties to the north and south, as a result of ground slippage caused by the creation of unsupported vertical excavations at the shared boundaries. The absence of engineering or geotechnical information demonstrating how the integrity of the shared boundaries would be maintained, during excavation and afterwards when the house would be occupied is a matter that would need to be addressed by the applicant before a grant of permission could be considered.

Front Elevation

- 7.3.10. The south west facing gable fronted elevation would be almost entirely glazed, with the separation distance between the proposed kitchen / living area and the first-floor windows of the existing house at No 10 Saint Clare's Avenue being c29m, while the separation distance would be slightly further to the first-floor windows of the neighbouring houses to the north and south, so that direct overlooking of internal spaces of neighbouring houses would be avoided from the interior of the proposed house.

Private Open Space

- 7.3.11. The effect of the excavation required to facilitate the proposed floor level would mean that the private open space at the rear of the site would rise by c1.5m from the top of the 1m high retaining wall to the rear boundary over a distance of 4.5m, and while it would provide c43sqm of open space, it would have a slope of 1 in 3 meaning that it would have limited functionality.
- 7.3.12. Based upon the plans submitted with the application, I am satisfied that the site would be provided with more than the 48sqm of private open space required by Objective 11.5 of the City Development Plan. However, the functional open space would be located at the front of the house, in the form of a patio.
- 7.3.13. The proposed patio would effectively act as a first-floor balcony, being set 2.18m above the ground floor levels of the adjacent houses. The patio would be c8m in depth, would be located less than 22m from the first floor windows of the nearest houses to the west and even closer to their side and rear gardens and would directly

overlook the retained open space of No. 10 Saint Clare's Avenue as well as the private open space at the rear of the adjacent properties at No's 9 and 11, while it would in turn be overlooked from the first floor rooms of the neighbouring properties, as no front boundary wall, fence, or hedging are proposed.

- 7.3.14. The proposed open space arrangement would result in an unacceptable degree of overlooking, would be detrimental to the residential amenities of occupants of both existing houses and the proposed house and would therefore be contrary to the provisions of Objective 11.5 of the Cork City Development Plan 2022-2028.

7.4. Impact on Character of ACA

- 7.4.1. It is noted that there are gable fronted dwellings, and dwellings with partial gable front elevations located within the ACA. With the exception of potential views of the proposed front elevation of the house that would be available from directly in front of the gap between the No's 9 and 10 Saint Clare's Avenue, the proposed house would not be visible from any other part of the public realm within the ACA. The proposed house would be set back approximately 46 metres from the public road frontage. The access lane along the southern side of the existing house is only c2.625m in width at one point with a similar gap at the side of No 9. Very little emphasis is placed in the Development Plan on the quality of houses on side streets within the ACA, and while any development has potential to have an impact, I am satisfied that the proposed house in the rear garden of No 10, would not have a negative impact on the character of the 'University College Cork (UCC), College Road and Magazine Road ACA'.

7.5. Impact on amenities of existing dwelling on site

- 7.5.1. Due to the nature of the proposed application and the severing of the application site from the site of the existing house, it is necessary to consider the impacts of the proposed development on the amenities of the existing house, No. 10 Saint Clare's Avenue, in the context of works recently carried out to No 10 and its retained grounds. Although these works are outside of the red lined site boundary, they are within the blue lined site boundary and are in my opinion indivisible from the proposed development.
- 7.5.2. The third party observations on the appeal note that the existing house at the front of the site, as presented in the application drawings, does not reflect the building that is

constructed on site. In addition to an attic conversion incorporating a large dormer window, the development has also been extended at ground floor level to the rear since the application was submitted to the Planning Authority, while work has commenced on the creation of stone surfaced parking area in the retained back garden area.

- 7.5.3. Objective 11.5 - Private Amenity Space for Houses of the Development Plan stated that houses should provide a private garden / terrace, of adequate size and proportions for the size of house proposed and that private outdoor areas should allow space for outside dining and / or clothes drying, with reasonable circulation. It continues that private open space for houses should aim to be at least 48 sqm, however, it may be acceptable to provide a smaller area where it can be demonstrated that good quality, useable open space can be provided on site.
- 7.5.4. The depth of the existing house, before being extended was 11 meters. The new ground floor extension measures externally at 7.1m in depth 6.14m in width, which is slightly narrower than the width of the existing house. The substantial parking area and access lane that have already been constructed along the southern side of the existing house also take up a substantial part of the retained garden. It is also noted that a concrete slab foundation has been installed in the northeastern corner of the parking area and a small steel shed has been erected thereon.
- 7.5.5. The impact of the ground floor extension, the access road along the side of the house and the hardcored parking area means that if the proposed development is permitted, the existing house at No 10 would be left with a very small area of open space, much less than 48sqm private open space target referred to in the Development Plan.
- 7.5.6. On the occasion of the site visit, it was observed that a low level curved plastered and block wall, separated the sunken retained open space at the rear of the existing house from the parking area. The proposed site plan indicates that a proposed embankment would be erected between the parking area and the retained private open space. While the width of the proposed embankment is shown to be c1.8m in width, it is not shown on the cross section and if erected would significantly reduce the width of the potential parking area or reduce further the potential area of open space, which is sunk relative to the adjacent parking area by up to c600mm.

7.5.7. Unless a high wall was to be erected, or an embankment as referred to in the drawings was constructed, the small area of retained open space would be directly overlooked by the occupants of the proposed house and by cars parking in the proposed parking area and I am satisfied that this application does not present a set of circumstances where it would be acceptable to provide a smaller area of open space that 48sqm, as the applicant has failed to demonstrate that good quality, useable open space can be provided on the retained site, for the benefit of the occupants of the existing house No 10 Saint Clare's Avenue.

7.5.8. Parking and turning movements

7.5.9. The site as outlined in red would be provided with zero parking spaces, but it is considered that the site would benefit from the provision of four proposed parking spaces, which are being developed within the retained rear garden of the main house, within the area outlined in blue on the site location and layout plans and is therefore in the control of the applicant. No planning permission has been sought for this parking area. Neither the application documents nor the appeal makes any reference to whether or not the proposed house will benefit from access to the proposed parking spaces in the rear garden of No 10, but the reference in the Proposed Site Plan refers to Shared Parking Area and this is understood to mean that the two houses would share the parking spaces.

7.5.10. The proposed house would have two bedrooms while the number of bedrooms in the existing house is not stated but assumed to be a minimum of three. The maximum number of parking spaces permitted for 1–2-bedroom houses is 1 while houses with 3 or more bedrooms can have a maximum of 2 parking spaces. This means that the maximum number of parking spaces that could be provided to serve the two houses would be three, one fewer than what is proposed on the site.

7.5.11. As the proposed house would be permitted to have a maximum of one parking space, permission could be granted without any onsite parking being provided and no further consideration of the matter would be necessary. However, as the site is being extracted from the rear garden of an existing house and the proposed house would benefit from parking being created in the garden of the existing house and acknowledging that the works to create the carpark may be subject to enforcement

action from the Planning Authority, it is considered necessary to examine this matter further.

- 7.5.12. The Urban Roads and Street Design section had recommended that further information be sought regarding the ability to carry out turning manoeuvres in the proposed car parking area as well as a requirement to demonstrate that the proposed access to the south of the existing dwelling is sufficiently wide to accommodate two passing vehicles or passing bays or other measures to allow two vehicles to pass safely.
- 7.5.13. Having visited the site, I am satisfied that it would not be possible for cars to pass safely at any point between the entrance to the site and the parking area as constructed, which extends for a distance of approximately 29m in an eastwards direction from Saint Clare's Avenue and conflicting traffic movements along the side of the existing house would require cars to reverse along the narrow side of the house, causing nuisance for the occupants of No 10, and the adjacent properties including No 9 to the south, as well as generating a traffic hazard on the lane with potential for damage to cars and structures due to the restricted width of the access lane.
- 7.5.14. The parking area (before any potential embankment would be built) measured 9.3m in width from the retaining wall that has been built to define the western site boundary and the retained open space at No. 10, while the depth of the parking area would be 8.8m. I am not satisfied that the parking area as built has the capacity to facilitate the parking, access, egress and turning of four cars.

7.6. **Bats**

- 7.6.1. Reference is made in a number of the observations to bats, which are protected species under EU and National legislation. However, no evidence has been provided by the observers in support of these claims and it has not been raised as an issue by the planning authority.

7.7. **Precedent**

- 7.7.1. The grounds of appeal refer to precedents throughout Cork City and specify one example at Dunlocha Cottages, which consists of houses being built in the back gardens of bungalows, where grants of permission have issued for many new

houses. Dunlocha Cottages are located 6.4 kilometers east of the application site, so could not be considered to be a relevant local precedent. The original houses on those sites are bungalows, so the issue of overlooking does not arise while the sites are also wider and deeper than the sites at Saint Clare's Avenue, thereby facilitating a greater level of separation, no overlooking, and much easier vehicular access to both the original and second houses in the back gardens. I am satisfied that the applicant cannot rely on this precedent to support a decision to grant permission in respect of the current application.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the separation distance between the site in question and the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. I recommend that permission is refused for the following reasons.

9.0 Reasons and Considerations

1 Having regard to the elevated nature of the proposed house and front terrace relative to adjacent houses, and the absence of any boundary treatment along the front boundary, it is considered that the proposed development would seriously injure the residential amenities and depreciate the value of adjoining properties by reason of visual obtrusion and overlooking of their internal and external spaces. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2 Having regard to the limited size of the site and the scale of development proposed, including the creation of a car parking area in the rear garden of the existing house from which this site is taken, it is considered that the proposed development would result in overdevelopment of the site by reason of inadequate

provision of good quality open space for both houses contrary to the provisions of Objective 11.5 of the Cork City Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3 Having regard to the location of the proposed house in the rear garden of an existing house, the shared access arrangements associated with the site and the existing house, which has recently been extended to include a large car parking area in the rear garden, which would benefit the existing house and the proposed house, it is considered that the proposed development represents inappropriate backland development, and would seriously injure the amenities of adjoining residential property by reason of traffic movements, would constitute a traffic hazard by reason of conflicting traffic movements on the landholding due to the narrow nature of the access lane that runs along the side of the existing house and on traffic and pedestrian movements at the site access by reason of the narrow nature of the footpath and public road and restricted sightlines at the entrance from Saint Clare's Avenue. The proposed development constitutes uncoordinated piecemeal development and would, therefore, be contrary to the proper planning and sustainable development of the area.

4 Having regard to the proximity of the proposed house to the northern and southern site boundaries and to the level of excavation required to facilitate the proposed finished floor level, part of the proposed house would be located below the ground levels of the adjacent properties to the north and south, taking into account existing boundary treatments. The subterranean floor level and proximity to boundaries would have a serious and detrimental impact on the ability of the house to benefit from access to sufficient levels of daylight/ sunlight/solar energy, requiring an excessive reliance on artificial forms of light and heating, which would be unsustainable and would be contrary to Objectives 11.3 and 11.4 of the Cork City Development Plan 2022-2028.

5 Having regard to the proposal to excavate part of the site to facilitate the proposed finished floor level and in the absence of information regarding existing ground conditions and details of how the integrity of the northern and southern boundaries that are shared with adjoining properties would be maintained during excavation and following the construction of the house, the Board is not satisfied that

the proposed development would not pose a threat to the integrity to the rear gardens and boundaries of the adjacent properties and would therefore seriously injure the amenities and depreciate the value of adjoining residential property.

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.

Joe Bonner
Senior Planning Inspector

23rd November 2023