



An
Bord
Pleanála

Inspector's Report ABP-315832-23

Development	Construction of a house
Location	Dunmore Lawn, Boreenmanna Road, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2241133
Applicant(s)	Niamh McCarthy & V.J. Bronk
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	John and Virginia Barrett
Observer(s)	None
Date of Site Inspection	13 th October 2023
Inspector	Joe Bonner

1.0 Site Location and Description

- 1.1. The triangular shaped greenfield site where the proposed house would be built is located at the eastern end of a short cul-de-sac consisting of three detached houses to the east of the site and two terraced houses set at 90 degrees to the northwest of the proposed house. The house would be orientated north to south, like the three dwellings to the east, including the appellant's home to the immediate east. The rears of several other houses abut the northern side of the cul-de-sac at an angle of 45 degrees, as they face northeast onto a separate road that is also called Dunmore Lawns.
- 1.2. The 0.042hectare site is narrow at the entrance with c6m of frontage before widening to 28m at the rear. The ground slopes uphill from the road to the rear by c1m across the site's depth of c27m. A large church and its carpark are located immediately to the south, approximately 4.5m from the rear/southern boundary.

2.0 Proposed Development

- 2.1. The development as applied for consists of permission for the construction of (1) A two storey detached dwelling, and (2) Alterations to the existing vehicular entrance and all associated site works.
 - 2.1.1. The original application included:
 - The minutes of a pre planning consultation phone call which indicated that the principle of the development would be acceptable provided that the design does not negatively impact on the existing neighbouring dwellings to the northwest and east, and that no overlooking or overshadowing including of private areas should occur.
 - An A3 shadow study drawing from the 24th of September and the 21st of December.
 - 2.1.2. The response to the request for further information included:
 - Revised plans reducing the depth of the first floor by 500mm at the rear of the house.
 - A more comprehensive 'Daylight and Shadow Study'.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. A decision to grant permission was issued by Cork City Council on the 21st of January 2023, subject to the attachment of five conditions including:

- No. 1 – Development to be carried out in accordance with original plans, as amended by way of further information.
- No. 3 – Storm runoff to be retained on site.
- No. 4 - All existing boundary treatments to be retained, maintained, and replaced, if necessary, in the interest of visual and residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officer's first report** sought further information on three items being:

- Submit revised drawings reducing the depth of the proposed dwelling at first floor level to match that of the existing dwelling to the east on Dunmore Lawns, as the proposal was deemed inconsistent with the objective for Single Units including Corner/Garden Sites as per paragraph 16.59 of the Development Plan (2015-2021) and would injure residential amenities in the area.
- Landscaping and boundary treatment details including retention of the existing boundary treatment between the proposed dwelling and the existing dwelling to the east.
- A letter of consent from the legal landowner of the site.

The **Planning Officer's second report** is the basis for the Planning Authority's decision to grant permission. It assessed the further information response and noted:

- The depth of the first floor has been reduced by 500mm and while it does not match that of the existing dwelling to the east, the amendments go towards addressing the concerns raised regarding visual impact. On balance, it was concluded that the visual impact of the proposed dwelling is acceptable.

- The landscape and consent items were satisfactorily addressed.

3.2.2. Other Technical Reports

Initial application

- **Senior Executive Planner** – Concurs with the Area Planner's report and recommendation to seek further information.
- **Drainage Division** – No objection subject to conditions.
- **Development Contributions Section** – No objection subject to conditions.
- **Part V** – Certificate of Exemption issued. Section 96 will not apply.

Response to Further Information

- **Planning Administration** – The appellant's agent wrote to Cork County Council indicating that they were of the opinion that the response contained significant further information. The Planning Authority did not agree.
- **Senior Executive Planner** – Concurs with the Area Planner's report and recommendation to grant permission.
- **Development Contributions Section** – No objection subject to conditions.

3.3. **Prescribed Bodies**

- 3.3.1. Irish Water – July 2022 - No objection subject to conditions.

3.4. **Third Party Observations**

- 3.4.1. An observation was submitted on behalf of John and Virginia Barrett, Rosario, Dunmore Lawn, Cork, which is the house located immediately to the east of the site. The grounds of the observation are generally reflected in the grounds of appeal so are not restated here, with the exception of the key requests, being that the council consider the following design alterations, in order to harmonise the relationship between the proposed house and the adjoining properties in Dunmore Lawn:
- Reduce the rear building line back to a level consistent with their property.
 - A landscaping plan ensuring any additional boundary planting will not exceed the height of the proposed extension, so as not to diminish the amenity of their property.

- Omission of the low-level kitchen window that would overlook their patio space.

3.4.2. The observation also referred to construction management issues such as parking, deliveries and the access gate.

4.0 Planning History

4.1. Application site

4.1.1. There is no site specific planning history.

4.2. Appellants Property

- **P.A. Reg. Ref. 0327828** – Permission granted to the appellants on the 23rd of February 2004 ‘to demolish existing garage and to erect a 2 storey extension to side, single storey to rear and ancillary works.’

4.3. Sites to north in cul-de-sac

- **P.A. Reg. Ref. 2342536** – Decision to grant permission issued on the 15th of February 2024 for extensions and alterations to the house to the immediately north of the site entrance, on the other side of cul-de-sac.
- **P.A. Reg. Ref. 9923057** – Permission granted on the 17th of June 1999 for extension to a house to the northeast of the site, at the end of the cul de sac.

5.0 Policy Context

5.1. **Cork City Development Plan 2022-2028**

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, which was after the further information request was issued, but before the decision to grant permission was issued.

5.1.2. The site is zoned ‘ZO 1 – Sustainable Residential Neighbourhoods’ the objective of which is ‘to protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.’

5.1.3. ZO 1.1 provides that ‘The provision and protection of residential uses and residential amenity is a central objective of this zoning’ while 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. The Development Plan supports the concept of infill housing on small sites and Objective 3.4 Compact Growth seeks to ensure that at least 66% of all new homes will be provided within the existing footprint of Cork.

5.1.5. Chapter 11 'Placemaking and Managing Development' provides the policy context including:

- Objective 11.3 – Housing Quality and Standards, addresses matters such as the design, layout, room size, whether a house is single or dual aspect, waste storage, sunlight, daylight and overshadowing.
- Section 11.89 – Developments are required to meet minimum habitable room sizes and provided adequate daylight for residents.

New Residential Development

- Section 11.66 – 'Placemaking and Quality Design' states that 'when assessing proposals for residential developments a broad range of issues will be assessed, including:

10. Impacts on residential amenity of surrounding areas (e.g. overlooking, daylight, sunlight and overshadowing);

- Section 11.145 – Vehicular entrances should not be greater than 3m in width.

Separation, Overlooking and Overbearance

- 11.100 – Privacy and overlooking are important for quality of life.
- 11.101 – All development proposals will be required to demonstrate that they have been designed to avoid overlooking.
- 11.105 – Overlooking may be overcome by a multitude of design tools, such as:
1. Building configurations (bulk and massing); 2. Elevational design / window placement; 3. Using oblique windows; 4. Using architectural features; 5. Landscape and boundary treatments.

Infill Development

11.139 – Infill development will be encouraged within Cork City... shall respect the height and massing of existing residential units... and 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).

Daylight Sunlight and Overshadowing (DSO)

11.97 – A daylight analysis will be required for...smaller applications where there are impacts on habitable rooms and the nature of the impact is not clear (e.g. if simple rules of thumb cannot be effectively applied to determine daylight levels on adjacent properties).

11.98 – It is very important that the DSO assessment is clearly set out to aid the planning assessment and is legible to non-technical people. To this end assessments should include an assessment of the scheme utilising best practice tools, such as BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' to satisfy minimum standards of daylight provision. In doing this it is very important that all measures of daylight (Vertical Sky Component, Average Daylight Factor and No Skyline) and sunlight (annual probable sunlight hours) are assessed in order to avoid presenting a partial, or biased, analysis of performance.

Heat Pumps

- Objective 5.17 Heat Pumps - To support the use of heat pumps in new build residential, commercial, and public buildings taking into account amenity, conservation and heritage considerations.
- Objective 9.15 Renewable Energy - a. To promote the increased use of renewable energy resources in Cork City such as solar, small or microscale wind, geothermal, heat pumps and district heating.

5.2. Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). (Compact Settlement Guidelines).

- The Compact Settlement Guidelines (2024) which have replaced the now revoked 'Sustainable Residential Development in Urban Areas Guidelines for

Planning Authorities (2009) and are considered relevant. Relevant extracts will be set out in the assessment section of this report.

5.3. Natural Heritage Designations

- 5.3.1. Cork Harbour SPA (004030) is located c1.25km southeast of the site.

5.4. EIA Screening

- 5.4.1. See completed Form 1 and Form 2 in Appendix 1.
- 5.4.1. Having regard to the limited nature and scale of the proposed single house development in a serviced urban area which is well below the thresholds set out in Part 2 (10) of Schedule 5 to the Planning and Development Regulations 2001 (as amended) dealing with urban developments (500 dwelling units, 10ha site area) and to the absence of any connectivity to any sensitive locations, I have concluded at preliminary examination stage that there is no real likelihood of significant effects on the environment arising from the proposed development having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001 (as amended).
- 5.4.2. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal was submitted on behalf of John and Virginia Barrett, Rosario, Dunmore Lawn, Cork, which is the house located immediately to the east of the site, They also made a submission on the application. The grounds of appeal can reasonably be summarised as:

Introduction

- The proposed house will have an overbearing impact on their property and amenity.

- They continue to seek the alterations requested in the initial submission being 1) a reduced rear building line consistent with their property; 2) a landscaping plan to restrict the height of any new planting to ensure not effect on the amenity of their property and 3) the omission of the low-level side kitchen window that would overlook their patio space.
- The development will diminish the amenity the appellants currently enjoy given that their garden, which is small, will experience an additional and increased sense of enclosure and a greater loss of light than what they currently benefit from.
- The matters raised in the original observation, were responded to in the response to further information, but we're not fully addressed by the council.
- The application is invalid as no letter of consent was attached with the application as is required under article 22(g)(i) the Planning and Development Regulations.
- The council permitted the amended development with no reference to the merits or otherwise of the Daylight Sunlight report submitted as further information.
- While the site is suitable for a dwelling, it should not be at the cost of the amenity of neighbouring properties, and while the council repeated this at pre application and further information stage, the decision failed to adequately address this matter.

Size of House

- The proposed 3-bedroom house with a floor area of 183sqm, would be almost double the floor area recommendation for such houses in the Quality Housing for Sustainable Communities Guidelines, will have an overbearing impact due to its bulk, massing and proximity to the appellant's rear amenity space and will lead to a loss of light and amenity, which are interlinked.
- Had the applicant reduced the depth of the first floor, to match that of the appellant's house, as per the request for further information, the appellants would have no issue and there would be no appeal. The logic of the daylight report was that reducing the depth of the property at first floor by 500mm (which was what was done by the applicant) rather than 1.7m as required by the RFI resulted in no material quantitative design change.

Daylight and Shadow Study

- The sunlight report was never critically assessed by the planning authority, which appear to ignore its provisions in favour the planning officer's design judgment.
- The essence of the daylight sunlight report is that the amenity of the appellant's home and garden is poor to start with and a further reduction shouldn't be seen as a bad thing. This is not acceptable, and the planning authority offered no opinion one way or the other on the report's contents.
- The appellants have a conservatory to the rear which is well glazed and has the benefit of a large south facing velux roof light and west facing glazing for lighting due to the obstruction of the church to the south. The conservatory was built to mitigate the impact of the church on lighting in the appellant's original house.
- It is clear from the daylight and sunlight report, that the appellants property already experiences significant dis-amenity and the BRE 25 degree standard confirms this. The conservatory is dual aspect as the church blocks light to the south and it gets its light from the west, where the proposed house is to be built.
- The amendments made in the RFI mean the building would extent 1.2m beyond the appellant's existing rear building line and blocks their established right to light. The impact can be addressed by reducing the depth of the building at first floor level to match that of the appellant's home.
- Images A and B of the Daylight and Sunlight report only refer to the elevational 45 degree line and not to the plan and the summary that the development is compliant with this standard is incorrect.
- Only 38% of the applicants own garden would only have 120 minutes of sunlight on the 21st of March, which is below the 50% acceptability level.
- The area outside of the patio window will be most impacted in the afternoons when the appellants wish to enjoy the space the most.
- The Sunlight and Daylight report is deficient as APSH loss at window W4 is not recorded. It will reduce from 31% to 27%, a loss of 12%, whereas a loss of 4% or more will see a room feel colder and less cheerful and pleasant.

- The applicant has misread Figure 27 and section 3.2.7 of BRE 209 by stating window W4 is due north or has attempted to misrepresent a window on a south facing elevation as being a north facing window.

Boundary Treatment / Low Level Window

- No landscaping commitment has been given and without it, the appellants cannot be sure how the development would impact their amenity.
- The proposed low level window on the eastern elevation serves no purpose and looks directly into their patio, which is the appellant's key amenity space. It is requested that the window is omitted, as the vegetation that is located between the two properties is subject to cutting and dieback and its replacement with a permanent structure may raise legal issues.

Noise

- No details of the proposed heating solution have been provided and BER and NZEB ratings generally require Air Source Heat Pumps. They are not classed as exempted development, have visual and audible impacts and if located at height or at the rear of the building, will cause dis-amenity to the appellants. If granted permission, plans should be provided of the location and it should be subject to noise restrictions.

Conclusion

- The appellants do not object to a house on this site but their sunlight and daylight concerns have not been addressed in an adequate manner and the building should be modified by moving the building line to reflect the existing building line on the road, consistent with sections 16.59 and 11.139 of the previous development plan.

6.2. Applicant Response

6.2.1. The applicant's response specifically addressed the points raised on page 9 of the third party appeal and stated:

- Image B of the Shadow Study Report shows the 45° angle in both plan and elevation from the soffit of the proposed two-storey element. As there currently exists a hedge boundary, at a similar height to the proposed single storey flat roof element, it serves very little purpose to draw a 45° angle from the corner of the proposed

single storey element. The development is exactly the same as the example used in Figure 17 of BRE 209, that states, 'A significant amount of light is likely to be blocked if the centre of the window lies within the 45° angle on both plan and elevation. Here the center of the window lies outside the 45° angle on elevation, so the impact of the extension is likely to be small". So, the same assumption must hold true in this case.

- In order to find out the exact impact of the proposal on the existing windows, APSH and VSC analysis and calculations are provided in tables 2 and 3 of the Report. Images 1 and 2 attached to the appeal response show 45° planes from both the single and two-storey elements of the proposal, with image 3 showing a section through both buildings at the midpoint of the existing window W4 in the appellant's conservatory. A 25° angle drawn from the midpoint of W4 shows that the single storey proposal does not subtend the 25° angle and is further evidence that daylight to this window is unlikely to be significantly affected.
- The light calculations for the appellant's amenity space demonstrated compliance with regulations and the main overshadowing impact on the amenity spaces of the appellant's property and the site, is from the adjacent church.
- The shadow study includes existing and proposed conditions on various dates and times throughout the year allowing for an easy comparison to be carried out.
- When calculating APSH, software automatically classifies any window within 90° due north as 'North'. Window W4 of the neighboring property does not fall within any of the 45° angles measured from the soffits of the proposed development, so it can be assumed, as per the BRE 209, that no significant reduction of light is likely. No attempt was made to mislead.
- The APSH calculations are shown in Table 2 of the report. The existing neighboring windows to the first floor are unaffected by the proposal, while the ground floor windows are slightly impacted but meet the BRE criteria.

6.3. Planning Authority Response

- None

6.4. Observations

- None

6.5. Further Responses

- None

7.0 Assessment

Introduction

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

- Principle of Development
- Validity of application
- Boundary Treatment / Low Level Window
- Size of House – Part 1
- Sunlight, Daylight and Overshadowing
- Size of House – Part 2
- Construction Access/Access
- Noise
- Appropriate Assessment

7.1.1. In the interest of clarity for the Board, I confirm that this assessment is based on the amended design, and associated plans and particulars submitted to the planning authority in response to the request for further information, as the revised design is the subject of both the decision to grant permission and the appeal.

7.2. Principle of Development

- 7.2.1. It is noted that the planning application was initially assessed under the policy provisions of the Cork City Development Plan 2015-2021, but that Plan had been superseded prior to the issuing of the decision to grant permission. This assessment is based on the provisions of the Cork City Development Plan 2022-2028, which came into effect on the 8th of August 2022. Variation No 1 regarding 'Car Parking Standards' was adopted on 8th May 2023.
- 7.2.2. The proposed development is located in an area zoned 'ZO 1 – Sustainable Residential Neighbourhoods' and I am satisfied that the principle of residential development is acceptable at this location, subject to the consideration of other matters, which are addressed below.

7.3. Validity of Application

- 7.3.1. In their original submission to the planning authority, the appellant's noted that a letter of consent had not been provided from the owner of the site and stated that the application was therefore invalid. The planning authority raised this issue in the request for further information, and in response, a letter of consent was provided from the Diocese of Cork and Ross, permitting the applicants to seek planning permission in respect of the site. For the purposes of this appeal, I am satisfied that the applicants have demonstrated sufficient legal interest to make the application and that it is not necessary to return the application to the applicants on the grounds that the application is invalid.

7.4. Boundary Treatment / Low Level Window

- 7.4.1. The existing site boundary consists of a tall mature evergreen hedge around the site boundaries including along the eastern side that separates the site from the appellant's property. The hedge is evident in photographs in the third party appeal and in the application plans.
- 7.4.2. The concerns of the appellants relate to dieback or the cutting back of the boundary hedge, which would mean that their outdoor private patio area would be directly visible from the proposed ground floor kitchen window. The planning authority attached a condition to the decision to grant permission requiring that the existing boundary treatments shown in the landscape plan shall be retained and maintained

in the interest of visual and residential amenity, and I am satisfied that should the board be minded to grant permission, that a similar condition could be attached to address landscaping and boundary treatments around the entire site, including between the application site and the appellant's property, that would ensure that the privacy of the appellant's property would be maintained at all times in the future.

7.5. Size of House – Part 1

- 7.5.1. The appellants state that the proposed house would have 3 bedrooms and a floor area of 183sqm, with 109sqm at ground floor and 74sqm at first floor level, which is almost double the floor area recommendation for such houses in the Quality Housing for Sustainable Communities Guidelines, and they also consider it would result in an overbearing impact due to bulk, massing and proximity to the appellant's rear amenity space and will lead to a loss of light and amenity, which are interlinked.
- 7.5.2. Following from the request for further information the first floor area was reduced by 12sqm to 62sqm as a result of reducing the back building line by 500mm giving an overall total floor area of 171sqm but would still have three bedrooms.
- 7.5.3. The appellant's submission to the planning authority had requested that the rear building line be moved back in line with their building line, which would have required moving the building line forward by c1.7m, and item 1 of the request for further information specifically requested that 'The applicant is requested to submit revised drawings reducing the depth of the dwelling at first floor level to match that of the existing dwelling to the east on Dunmore Lawn'. In response, the applicant reduced the depth of the extension by 500mm meaning that it continues to protrude approximately 1.2 metres beyond appellant's first floor rear building line.
- 7.5.4. The appellants stated that if the applicant reduced the depth of the first floor, to match that of their home as per the further information request, they would have no issue and there would be no appeal. However, they do not agree with the applicant's daylight report, which considers that there was no material difference in reducing the depth by 500mm, or 1.7m which was required by the further information request.
- 7.5.5. The appellants quote the planning officer's report, which states that although the depth of the revised first floor does not match that of the appellant's house, the amendments do go towards addressing the concerns previously raised regarding the visual impact of the proposal and the planning officer went on to conclude that the

visual impact of the proposed dwelling by reason of its location and reduced depth , is considered on balance, acceptable. The appellant's concerns are not about visual impact, but about loss of daylight, sunlight and overshadowing that would be created by the proposed development, in particular the extended first floor building line beyond that of their home, and in that context I will examine the impact of the extended first floor in the context of sunlight, daylight and overshadowing in section 7.6 below, as they are in my opinion, as stated by the appellant's, interlinked matters, before drawing a conclusion in respect of the suitability or otherwise of the proposed first floor rear building line in section 7.7 below.

7.6. Sunlight, Daylight and Overshadowing

- 7.6.1. In response to the request for further information, the applicant submitted a 'Daylight and Shadow Study' of the proposed revised development, reducing the first-floor depth by 500mm relative to the original proposal. The appellants are not satisfied that the planning authority addressed the contents of the report in any meaningful way or offered opinions thereon, either positive or negative. I have considered the information in the Daylight and Shadow Study as part of this assessment.
- 7.6.2. The appellants state that their property already experiences significant dis-amenity and loss of light due to the obstruction of the large church, which is located immediately to the south , and that the main light they receive comes from the west across the application site, into the conservatory, which was built to mitigate the lack of lighting received in their original house.
- 7.6.3. The 'Daylight and Shadow Study' addresses daylight and sunlight impacts on the two nearest neighbouring houses and also looks at overshadowing impacts on existing garden/amenity areas, as well as the garden/amenity area of the proposed house and this section will examine each one separately as they are distinct topic areas and require different tests to be carried out for the existing properties and the proposed house.
- 7.6.4. Section 11.98 of the Cork City Development Plan refers to assessment tools such as BRE Guidelines 2009, while the applicant's Daylight and Shadow study and the grounds of appeal are founded on that document, as is this assessment.

Daylight to appellant's property

- 7.6.5. In designing new development, it is important to safeguard daylight to nearby buildings. The introduction to the report states that the 45 degree test is the most appropriate one to take as the nearest side of the dwelling is perpendicular to the neighbouring windows and in response to the appeal they elaborated on this element of the report, by providing additional images. The measurements provided demonstrate that the centre of the main window on the appellant's property lies outside of the 45 degree angle on both the plan and elevation, and the impact of the proposed development on light to the appellants property would be small. The 45 degree test addresses diffuse skylight only, and while I am satisfied that the images provided by the applicant indicate that there would be no substantial interference to light at the appellant's property, it is only one of a number of tests that need to be considered.
- 7.6.6. The Daylight and Shadow report also contains the results of a 3D model analysis of Vertical Sky Component for potentially affected windows at the rear of the appellant's property. The BRE guidelines state that, in general Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure.
- 7.6.7. In response to the grounds of appeal the applicant's agent has prepared an additional Image 3, which following the BRE guidelines, takes a section from the façade of Window W4 in the appellant's conservatory across the proposed development and draws a 25 degree angle to demonstrate that the single storey element will not affect light at the neighbouring window W4. The BRE guidelines provide that loss of light need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window as the loss of light will be small. The finished floor level (FFL) of the proposed house would be 600mm below the FFL of the appellant's conservatory. It would have a FFL of 23.2m and a flat roof height of 26.2m, while the FFL of the conservatory is 23.8m. The effective height of the proposed single storey element is therefore 2.4m. The BRE guidelines also state that a typical ground floor window would be 1.5m above ground floor level and the threshold for analysis is therefore $3 \times (2.4\text{m} - 1.5\text{m}) = 2.7\text{m}$, meaning any building more than 2.7m from the proposed single storey element need not be analysed. The distance between the

affected window on the appellants conservatory and the proposed single storey element of the proposed house is 7.2m, and does not require any further analysis and I am satisfied by reference to section 2.2 of the BRE guidelines, the height of the proposed single storey element, and the separation distance from the proposed development to the appellants conservatory, that the single storey element will have no impact on daylight at the appellant's property.

- 7.6.8. Using that same BRE methodology, the proposed two storey element that extends behind the existing building line of the appellant's home, would have an effective height of 4.8m above the FFL of the appellant's conservatory, which is at the point where the fascia and roof meet. $3 \times (4.8 - 1.5) = 9.9\text{m}$, while the separation distance is 7m, allowing for the protruding fascia, meaning that the two storey element requires further assessment. The Daylight and Shadow Study did not address the 25 degree angle test in respect of the two storey element of the building, as they did in respect of the ground floor. However, Image 3 in the response to the grounds of appeal indicates that the 25 degree angle would have minimal or no impact on the centre conservatory Window W4, taking into account that the proposed roof is a double hipped roof, and it is also noted that the drawings indicate the appellant's conservatory extends 3.2m from the rear boundary of the main house, while the proposed two storey element would extend 1.2m beyond the appellant's rear first floor building line. This means that the southernmost 2m of the appellant's would not be affected by the proposed two storey element, but nevertheless as the angle is greater than 25 degrees over part of the roof, a more detailed check is needed.
- 7.6.9. The Daylight and Shadow Study assessed the VSC at all relevant windows at the rear of the appellant's property. The BRE Guidelines state that a VSC greater than 27% should provide enough skylight, that any reduction below this level should be kept to a minimum and that if the VSC is both less than 27% and less than 0.8 times its former value, with the new development in place, occupants of the existing building (in this case the appellants) would notice the reduction in the amount of skylight.
- 7.6.10. Table 3 of the Daylight and Shadow Study indicates that all seven ground floor windows on the appellant's conservatory have an existing VSC of less than 27%, which I consider can be accounted for by its location and orientation relative to the large church to the south and south-west, that the appellants themselves state,

restricts access to light at the rear of their home. While each of the seven conservatory windows would experience a reduction in VSC with the proposed development in place, the greatest reduction would be at Window W4, that faces west towards the application site, where the VSC would reduce from 19.09 to 17.20, which is 0.9 times its previous value. The BRE guidelines provide that where windows would have both a VSC of less than 27% and a value of less than 0.8 times the previous value, the occupants of the existing building would notice the reduction in the amount of skylight. The three first floor windows at the rear of the appellants home have and would maintain a VSC of more than 27%. I am satisfied that all ten assessed windows meet the BRE criteria and that the proposed development is acceptable in this regard.

Sunlight to existing and proposed amenity spaces

- 7.6.11. The BRE Guidelines recommend that at least half of amenity areas should receive at least two hours of sunlight on the 21st of March. The Daylight and Shadow Study assessed sunlight availability at the application site and the amenity areas of the two immediately neighbouring houses, including the appellants property, as a result of the proposed development, and has demonstrated that the positioning of the church to the south has a significant impact in terms of shadow cast in both the appellant's rear garden and within the application site, on that date.
- 7.6.12. Image 10 of the Daylight and Shadow Study indicates in respect of the house to the northeast, that more than 89% of the amenity area would continue to receive more than 2 hours of sunshine on the 21st of March, with the proposed development in place, which is compliant with the BRE Guidelines.
- 7.6.13. Image 10 also confirms that there will be no reduction in the area of amenity space at the appellant's property, which would receive a minimum of 2 hours sunshine on the 21st of March, with 66.32% of the area receiving at least 2 hours sunshine, which is well in excess of the minimum 50% recommendation from the BRE Guidelines. I am satisfied that the proposed development would not affect the quantum of sunlight being received in the amenity spaces of either of the nearest residential properties and is acceptable in that respect.
- 7.6.14. The appellants highlight that the application site will not receive the recommended amount of sunlight in its amenity space, and they state that only 38% of the garden

would receive 2 hours of sunlight on the 21st of March. The shadow generated by the church to the south and southeast of the application site is a significant factor in this result. I also note the provisions of SPPR 2 - Minimum Private Open Space Standards for Houses from the Compact Settlement Guidelines 2024, which state that it is a specific planning policy requirement of the Guidelines that proposals for new 3-bedroom houses meet a minimum private open space standard of 40sqm. The rear garden in the proposed house is stated in the Proposed Site Plan (Drg. No. 2189-100B) to be 180sqm in area, on an overall site of 421sqm. 38% of 180sqm would equate to 68sqm, which is significantly more than the minimum open space required for a three bedroom house, and taking this into account I am satisfied that the level of sunlight that will be achieved in the outdoor amenity space on the 21st of March would provide for an acceptable level of amenity for the future occupants of the proposed house.

- 7.6.15. Accordingly, I am satisfied that the proposed development complies with BRE recommendations in respect of sunlight to existing and proposed amenity areas, and I have no objection in this regard.

Sunlight to Existing Buildings

- 7.6.16. Sunlight to the neighbouring houses including the appellant's home is assessed in the Daylight and Shadow study in terms of a shadow study on December 21st, March 21st, and June 21st as well as via the calculation of Annual Probable Sunlight Hours (APSH) to each of the windows at the rear of the appellant's home.
- 7.6.17. The BRE guidelines describe the shadow diagrams for June and December as an optional addition to the test for ASPH for March 21st. No additional shadows were noted in December, with limited additional shadowing noted on June 21st at 6 and 7pm at windows W1 and W4 of the conservatory, while additional shading would also occur at 5 and 6pm on March 21st. To address the findings of the shadow study in more detail, the annual probable sunlight hours (APSH) at each of the windows at the rear of the appellant's home has been assessed in the study.
- 7.6.18. The BRE guidelines provide that if a window can receive more than one quarter of annual probable sunlight hours 25% (APSH), including at least 5% of APSH in the winter months between 21 September and 21 March, then it should still receive enough sunlight. However, if the window receives less than 25% annual or 5% winter

ASPH and also receives less than 0.80 times its former value, either over the whole year or just in the winter months (21 September to 21 March), and the overall annual loss is greater than 4% of APSH, then the occupants of the existing building will notice the loss of sunlight; the room may appear colder and less cheerful and pleasant.

- 7.6.19. All three first floor and seven ground floor windows at the rear of the appellants home were examined. All ten windows currently receive and would continue to receive more than 25% ASPH with the development in place. I am satisfied that nine of the ten windows currently receive and would continue to receive more than 25% APSH, at least 5% winter APSH and more than 0.8 times their former values, are compliant with the recommendations of the BRE guidelines and require no further assessment.
- 7.6.20. Although the appellants correctly point out that the applicant did not input the APSH results into Table 2 in respect of Window W4, Image G1 indicates that window W4 would receive more than 25% of ASPH, with and without the development in place, receiving 31% at present and 27% with the development in place, representing a 4% drop in ASPH, or 0.87 times its former level meaning that the window would continue to receive more than 0.8 times its former ASPH, which is the benchmark set out in the BRE Guidelines. I do not concur with the appellants statement that the loss of ASPH would be 12%. The results also demonstrate that the current Winter APSH at Window W4 is 4% and it would remain at 4% post development, meaning that while it is below the recommended 5% APSH, the proposed development would have no impact on the winter ASPH at Window W4.
- 7.6.21. Based on the results presented in the Daylight and Shadow Study, which I am satisfied are sufficient to carry out this assessment, I am satisfied that the proposed development complies with the recommendations from in the BRE Guidelines and that the appellant's conservatory would continue to receive an acceptable quantity of Annual Probable Sunlight Hours with the development on place and that the development is acceptable in that respect.

Conclusions on Daylight/Sunlight

- 7.6.22. I am satisfied that the BRE guidelines allow for flexibility in terms of their application and note the Board has discretion in applying the guidelines following from the

Compact Settlement Guidelines, taking into account site constraints and the need to secure wider planning objectives, such as the development of infill site in urban areas. I am satisfied that the availability of sunlight and daylight to existing residents, the occupants of the proposed house and open spaces would be in accordance with BRE recommendations and would not result in any unacceptable impacts.

7.7. Size of House - Part 2

- 7.7.1. In paragraph 7.5.5 above, I indicated that I would consider the size of the house in respect of the impacts on sunlight, daylight and overshadowing and following from my conclusions in section 7.6 above, I am satisfied that the proposed development as amended by way of revised plans submitted to the planning authority on the 20th day of December 2022, in response to the request for further information, that reduced the rear building line by 500mm relative to the original proposed rear building line, would be acceptable. I am satisfied that it would not be necessary to further reduce the building line to match the rear building line of the appellant's adjacent property. In reaching this conclusion, I am also satisfied that the bulk and massing of the building are acceptable.

7.8. Noise

- 7.8.1. The appellants raise concern regarding the lack of information provided in the application with respect to the proposed heating solution that will be used in the house with their main concerns relating to visual impact and noise and they request that the details of the location should be provided, and any possible Air Source Heat Pumps should be subject to a noise restriction.
- 7.8.2. The development plan includes several objectives promoting the use of heat pumps and while the matter was also raised in the appellants original observation to the planning authority it was not addressed by the planning authority.
- 7.8.3. The appellant incorrectly states that planning permission is required for heat pumps as it is specifically set out as a class of exempted development under Class 2(d) of Part One of Schedule 2 to the Planning and Development Regulations 2001, as amended, which includes conditions and limitations, including that noise levels must not exceed 43db(A) during normal operation, or in excess of 5db(A) above the background noise, whichever is greater, as measured from the nearest neighbouring inhabited dwelling.

7.8.4. As the applicants have not provided details of the heating source for the proposed house, I do not consider that it would be appropriate to attach a condition restricting their ability to carry out development that would otherwise be exempted development, as they will be bound by the restrictions imposed by Class 2(d), including the noise limitations set out in the preceding paragraph, and any breach of those conditions and limitations would be a matter to be addressed by the planning enforcement section of the planning authority.

7.9. Construction Access/Access

7.9.1. The appellant's raised concerns in their original observation regarding construction traffic and the size of the access to the site. I am satisfied that the proposed access is acceptable as there is an existing entrance in place and that matters relating to the construction phase of the development can be addressed by way of the attachment of a condition requiring the submission of a construction management plan prior to the commencement of development.

7.10. Appropriate Assessment

7.10.1. I have considered the proposed house in light of the requirements of S177U of the Planning and Development Act 2000, as amended. The subject site is located c1.5km southeast of Cork City Centre, on a greenfield infill site of 0.042ha at Dunmore Lawn, Boreenmanna Road, Cork, and is located c1.25km southeast of Cork Harbour SPA (004030).

7.10.2. The proposed development comprises of the construction of (1) A two storey detached dwelling with a floor area of 171sqm over two floors, and (2) Alterations to the existing vehicular entrance and all associated site works.

7.10.3. No nature conservation concerns were raised in the planning appeal.

7.10.4. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reasons for this conclusion are as follows:

- The nature of works being a small-scale infill residential development on a serviced urban site.

- The physical separation distance to the nearest designated European Site Cork Harbour SPA (004030) which is located c1.25km southeast of the site and the absence of any ecological and/or a hydrological connection
- The conclusions in the planning officer's report regarding Appropriate Assessment.

7.10.5. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

7.10.6. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

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. Having regard to the zoning objective of the area, the design, layout and scale of the proposed development, and the pattern of development in the vicinity, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity 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 and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars received by the planning authority on the 20 th day of December 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such
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	<p>details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
4.	<p>Prior to commencement of development, the developer shall enter into water and wastewater connection agreement with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
5.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p>Reason: In the interest of visual and residential amenity.</p>
6.	<p>The construction of the proposed 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 proposed development, including noise management measures, traffic management and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of public safety and residential amenity.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays, inclusive, between 0800</p>

	<p>and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>The site shall be landscaped in accordance with a landscaping scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall include details of hedging to be protected during construction, details of the means of protection of hedging and any trees or new hedging to be planted, which will be planted in the first planting season following completion of the development. Any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.</p> <p>Reason: In the interest of visual and residential amenity.</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>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.

Joe Bonner
Senior Planning Inspector

22nd April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315832-22		
Proposed Development Summary	Construction of a house		
Development Address	Dunmore Lawn, Boreenmanna 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	X
		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	X		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]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10(b)(i) of Part 2: threshold 500 dwelling units (iv) urban development 10 ha site	One dwelling Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X		Preliminary Examination required
Yes			Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	315832-22	
Proposed Development Summary	Construction of a house	
Development Address	Dunmore Lawn, Boreenmanna Road, Cork	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The subject development comprises single dwelling in a vacant greenfield/infill site in a mature suburban residential cul-de-sac in an area characterised by residential development. In this way, the proposed development would not be exceptional in the context of the existing environment.</p> <p>During the construction phase the proposed development would generate waste during excavation and construction. However, given the moderate size of the proposed dwelling I do not consider that the level of waste generated would be significant in the local, regional or national context. No significant waste, emissions or pollutants would arise during the construction or operational phase due to the nature of the proposed use.</p>	<p>No</p> <p>No</p>
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context</p>	<p>The proposed development would consist of a single two storey dwelling with a floor are of 171sqm and is not considered exceptional in size</p>	

<p>of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>in the context of the surrounding residential or ecclesiastical buildings.</p> <p>Owing to the serviced urban nature of the site and the infill character of the development in a serviced urban area, I consider that there is no real likelihood of significant cumulative impacts having regard to other existing and/or permitted projects in the adjoining area.</p>	<p>No</p> <p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The application site is not located in or immediately adjacent to any European site. The closest European site is (Site Code: 004030) Cork Harbour SPA approximately 1.25km to the southeast of the site.</p> <p>There are no waterbodies or ecological sensitive sites in the vicinity of the site. The site is located within a serviced urban area and the development would be connected to public surface and foul sewers. I do not consider that there is potential for the proposed development to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p> <p>No</p>
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)