



An
Bord
Pleanála

Inspector's Report

ABP-315837-23

Development	Change of use from single storey shed to domestic dwelling
Location	230 Lower Pouladuff Road, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2241581
Applicant(s)	Geraldine O'Connor
Type of Application	Permission - Change of Use
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Geraldine O'Connor
Observer(s)	None
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 consists of a shed and lean to building located to the rear/west of line of mature suburban houses, c600m north of the Togher interchange on the Cork Southern Ring Road and c1.75km southwest of Cork City Centre. The shed was currently in use as a car maintenance facility, having been closed at the time that the application and appeal were submitted.
- 1.2. The site is accessed via a 5.39m wide laneway / right of way that runs in an east to west direction from Lower Pouladuff Road for a distance of c20m. The applicants two storey detached home and a single storey building occupied by a hairdressing salon are located to the immediate south of the access lane. A vehicular access gate on the lane provides access to the applicant's garden that extends along the length of the southern and eastern boundaries of the site.
- 1.3. A terrace of three no two storey houses is located to the north of the access lane and the northern gable of the shed immediately abuts the northern site boundary that forms part of the rear garden boundary of 229 Lower Pouladuff Road.
- 1.4. The rear of the shed is located on the western boundary of the site, which is shared with the side and rear garden areas of two residential properties located to the west on Edward Walsh Road, with the house to the north west being single storey the house to the west being three storey.
- 1.5. The lean to structure that is to be removed runs along the entire southern boundary of the site, which shares the boundary with the applicants back garden.

2.0 Proposed Development

- 2.1.1. The proposed development was described in the public notices as:
 - Permission for change of use from existing single-storey storage shed to domestic dwelling house to include:
 - (1) Removal of existing open canopy, to front and side of building;
 - (2) Construction of new first-floor habitable space, elevational alterations of existing building, to include dormer windows to rear elevation;

- 2.1.2. The site has an area of 0.025ha (250sqm). The existing shed has a floor area of 45sqm, while the proposed first floor extension would be 33sqm.
- 2.1.3. The application was accompanied by a cover letter setting out the existing site context, including that the existing site boundaries would be retained, that there are existing connections on site to all piped services and that the total floor area of the house would be 75sqm.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 26th of January 2023, Cork City Council issued a decision to refuse permission for two reasons which stated:
 - 1 Having regard to the provisions of the internal arrangement and space of the proposed accommodation, and the minimum standards set out in the Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007) it is considered that the proposed development represents sub-standard accommodation in terms of unit size would produce a living environment of low amenity value. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.
 - 2 Having regard to the location and proximity of existing residential properties, the orientation and height of the proposed development and the positioning of windows, it is considered that the proposed development would result in overlooking of adjacent properties and would be overbearing in nature. The proposed development would set and undesirable precedent in this area. The proposed development, therefore would seriously injure the amenities and depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The Assistant Planning Officer's report is the basis for the decision to refuse permission and states that:

- The proposed dwelling fails to meet the minimum requirements with respect to aggregate living area and bedroom area set out in the Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- As the proposed first floor bedroom windows would be built on the boundary wall with a third party property, the development does not accord with Section 11.101 of the Development Plan that requires that all development proposals must demonstrate that they have been designed to avoid overlooking.
- To permit the development would set an unwelcomed and inappropriate backland development precedent.
- Proximity to the rear boundary raises concerns regarding maintenance.
- Omitting the dormers would make the first floor area too small for habitable purposes.
- The vehicular entrance is wider than 3m in width and there could be conflict using the right of way as it also provides access to the neighbouring hair salon.
- The private open space, that would be located to the front of the house, is suitable subject to adequate screening.
- The proposed dormers would unduly impact residential amenity of the dwellings to the rear by way of overlooking.

3.2.2. Other Technical Reports

- **Senior Executive Planner** – Concurs with the recommendation of the Assistant Planner.
- **Senior Planner** – Concurs with the recommendation of the Assistant Planner, subject to a slight amendment to the wording of the second refusal reason.
- **Drainage Division** – No objection subject to conditions.

- **Environment Waste Management and Control** – No objection subject to conditions.
- **Development Contributions Section** – No objection subject to conditions.
- **Part V** – Section 96 will not apply to the proposed development.

3.3. Prescribed Bodies

- **Irish Water** – No objection subject to conditions.

3.4. Third Party Observations

None.

4.0 Planning History

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

- **P.A. 22/41123** – Permission granted on 29th of September 2022 on a site c60m north east of the entrance to the site from Pouladuff Road for the ‘demolition of an existing shed and construction of a two-storey, two-bedroom end of terrace house.

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.

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. 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, the repurposing of existing buildings 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 and that least 33% of all new homes will be provided within brownfield sites in 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 have a requirement to meet minimum habitable room sizes.

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 – Traditionally a minimum separation distance of 22m between the rear elevations of buildings was required to provide sufficient privacy and avoid overlooking of back gardens. 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

Quantitative Standards for Houses

11.107 Cork City Council will seek to ensure that all new houses are designed to excellent design standards. Quality Housing for Sustainable Communities (2007) provides a quality reference point that will be taken into account.

Small Residential Developments & Alterations to Existing Dwellings

Infill Development

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

5.2. Natural Heritage Designations

5.2.1. None Relevant.

5.3. EIA Screening

5.3.1. Having regard to the existing development on site, the limited nature and scale of the proposed development in a serviced urban area and the absence of any connectivity to any sensitive location, 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). 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. The applicant has submitted an appeal in respect of the decision of Cork City Council to refuse permission. The grounds of the appeal can be summarised as:
- The existing shed was previously used as a mechanics garage from 2014-2021 and prior to that as a video retail shop, garden centre and turf/fuel depot for Cork County Council. The proposed use would remove any potential negative impact associated with a commercial use.
 - The proposed development involves works to an existing building, does not constitute new development, is not backland development and would not have negative impact on neighbouring properties.
 - The first reason for refusal is incorrect as the proposed development complies with the standards set out in the Quality Standards for Sustainable Housing Guidelines.
 - The unit would be dual aspect at ground and first floor levels.
 - There is no risk of negative impact on neighbouring properties: no overlooking issues will be possible onto private neighbouring open spaces to the south and to the north, and the neighbouring properties to the west of the site are orientated in such way to avoid any possible overlooking (i.e., the gable end of the neighbouring properties to the east face the subject site).
 - The site entrance has been reduced to 3m in width as per Policy 11.145 of the Development Plan (as part of the appeal).
 - The single family home would generate much less traffic than the previous commercial use of the site, would be a positive contribution to the local area compared to the commercial use and would significantly contribute to the demand for housing.
 - There have been no third party submissions in respect of the development.
- 6.1.2. The appeal was accompanied by revised plans showing an alternative first floor layout. No amendments were proposed to the exterior of the structure including the

location of the proposed dormer windows on the rear of the proposed house which would be located on the boundary with the garden of a neighbouring residence.

6.2. **Planning Authority Response**

- None.

6.3. **Observations**

- 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 local planning policies, I am satisfied that the main issues in this appeal are those raised in the Planning Authorities reasons for refusal and in the grounds of appeal and they can be dealt with under the following headings:

- Housing Quality Standards
- Overlooking – Dormer Windows
- Width of Entrance
- Appropriate Assessment

7.2. **Housing Quality Standards**

Original Floor Plans

7.2.1. In the grounds of appeal, the applicant stated that the proposed development as originally submitted to the Planning Authority complies with the minimum requirements of the Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

7.2.2. Having examined the plans submitted with the application, I am satisfied that the proposed house would have an aggregate living area of 28.5sqm, which is in excess of the minimum requirement of 28sqm, while 5.8sqm of storage space would be

provided over the two floors and is in excess of the minimum storage requirement of 3sqm.

7.2.3. The two proposed bedrooms would have a combined area of 23sqm, which is 3sqm more than the minimum aggregate area requirements of 20sqm.

7.2.4. However, the guidelines also state that:

- the area of a single bedroom should be at least 7.1sqm,
- a double bedroom should be at least 11.4sqm.
- the area of the main proposed bedroom should be at least 13sqm in a dwelling designed to accommodate three or more persons.

7.2.5. The proposed house would accommodate three persons.

7.2.6. The individual bedrooms rooms, excluding the proposed ensuites, were proposed to be 10.6sqm and 12.4sqm.

7.2.7. I am satisfied that while the proposed floor plans as submitted to the Planning Authority would provide an aggregate floor area that is in excess of minimum requirements, neither bedroom exceeded the 13sqm requirement of Table 5.1 of the Guidelines and the first reason for refusal imposed by the Planning Authority reflected this failure to comply with the requirements of the guidelines.

Housing Quality Standards – Floor Plans submitted as part of Appeal

7.2.8. Notwithstanding the claim by the appellant that the original plan was compliant with the minimum requirements of the 'Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), they also submitted an alternative proposal to the Board for consideration as part of the appeal.

7.2.9. The proposed amendments consist of changes to the internal layout at first floor level only, with a single bathroom replacing the original proposed two no. en-suites. The floor areas of the bedrooms have been altered so that one bedroom would now be 14.98sqm and the second would be 9.9sqm. The house is still designed to accommodate three persons as was originally proposed.

7.2.10. As a result of these proposed amendments to the layout of the floor plan, I am satisfied that the alternative plans are compliant with all of minimum requirements of

the 'Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007) and that grounds of the first reason for refusal would not apply to the alternative first floor plan.

7.3. Overlooking - Dormer Windows

- 7.3.1. The Cork City Development Plan notes that privacy and overlooking are important for quality of life, states that all development proposals will be required to demonstrate that they have been designed to avoid overlooking and that overlooking may be overcome by a multitude of design tools, such as design / window placement, landscape and boundary treatments.
- 7.3.2. The grounds of appeal indicated that the applicant is aware of the difference between the overlooking of outdoor open space and the overlooking of the internal spaces of neighbouring properties.

Overlooking of internal spaces

- 7.3.3. The proposed dormer windows would face the three storey gable end of a terraced residential building (No. 14 Edward Walsh Road) that is located 16.52m to the west and is set at an angle of c90 degrees to the existing shed. Windows are located at both first and second floor level in the gable of No 14 Edward Walsh Road. While the separation distance between the existing gable windows and the proposed dormer windows is less than 22m, the two dormer windows would be set at an angle to the existing first floor window, and I am satisfied that the dormer windows would not directly overlook the internal spaces of No 14 Edward Walsh Road to the extent that they would have a significant negative impact on its internal amenities.

Overlooking of external private open spaces

- 7.3.4. The key issue in the second reason for refusal is the proposed positioning of two dormer windows directly on the rear boundary wall that would directly overlook the large side/rear garden of the No. 14 Edward Walsh Road to the west as well as the private side/rear garden of No. 12 Edward Walsh Road to the northwest.
- 7.3.5. While the garden at No 14 is significantly overgrown in places, it may not always be, and this must be factored into the assessment of potential impacts. Part of the garden is used as a functioning private open space, with a table and chairs noted to be present on the occasion of the site visit. The private open space at No 14 includes

a hard surfaced area and a small shed close to the proposed dormer in bedroom No 2.

7.3.6. I am satisfied that the location of the proposed dormer windows would seriously detract from the ability of the occupants of No. 12 and No. 14 Edward Walsh Road to enjoy the amenities afforded by the use of their private open spaces now and in the future.

7.3.7. I am further satisfied that the proposed development has not been designed to avoid overlooking of the private open space areas of the residential properties to the west and north west, is not an appropriate design solution that would protect the amenities and value of property in the vicinity and if permitted would set an undesirable precedent for similar development.

7.4. Width of Entrance

7.4.1. While the reasons for refusal did not include reference to the width of the entrance, as part of the appeal, the applicant has proposed to reduce the width of the entrance to the site at the western end of the right of way to 3m. The reduction in width of the entrance to 3m in width will not change the width of the access lane or its width at the point where it crosses the public footpath and will have no impact on traffic safety as envisaged in Section 11.145 of the Development Plan. The width of the access point to the site could be addressed by way of a condition of a grant of permission.

7.5. Appropriate Assessment

7.5.1. 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 reason.

9.0 Reasons and Considerations

1 The rear/western elevation of the existing shed forms the boundary of the site with the rear and side gardens of two adjacent residential properties to the west and northwest. The proposed fenestration that is to be located in the boundary wall would directly overlook the rear and side gardens of those adjacent properties, and as a consequence it is considered that the proposed development would seriously injure the residential amenities and depreciate the value of those properties by reason of overlooking and would set a precedent for further inappropriate development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

25th October 2023