



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317149-23

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<b>Development</b>	Construction of a house
<b>Location</b>	3 Temple Vale, Beaumont , Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	2241639
<b>Applicant(s)</b>	Darragh Scriven
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John Murphy Ursula & Declan Lynch
<b>Observer(s)</b>	None on file
<b>Date of Site Inspection</b>	15 <sup>th</sup> July 2023
<b>Inspector</b>	Sarah Moran

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## 1.0 Site Location and Description

1.1. The site, stated area 0.038 ha, is located to the rear of an existing two storey, detached house located on a corner site at Temple Vale, in the established residential area of Beaumont in Cork city. The existing house has road frontages to the front and side. The rear garden is overgrown and is currently partially subdivided by a block wall. There are existing detached two storey houses and associated gardens to the immediate north and west of the site.

## 2.0 Proposed Development

2.1. Permission is sought to construct a two storey dwelling, stated area 177 sq.m., with associated private open space and a new vehicular access from Temple Vale to the rear of no. 3 Temple Vale. The development is to connect to the public sewer and water supply.

2.2. The applicant submitted further information to Cork City Council (CCC) on 21<sup>st</sup> March 2023 comprising:

- Drainage Statement with details of proposed surface water and wastewater drainage, also Irish Water Confirmation of Feasibility for the development.
- Revised dwelling design.
- Revised notices.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.2. CCC requested further information on 17<sup>th</sup> February 2023 in relation to the following matters:

1. Given the constraints of the site, it is considered that the scale, massing and design of the proposed dwelling would adversely affect the visual amenity of the area and would be out of character with the existing dwellings in the location. In this regard, the applicant is requested to submit the following:

- Revised design to reasonably correspond with the adjacent dwellings to the north when viewed from the front elevation.
- Revised drawings showing a significant reduction in the first floor area, to reduce the overall sale of the dwelling, with consideration given to reducing the number of bedrooms at upper floor level to two bedrooms only with windows serving both bedrooms facing the front elevation only.
- Revised ground floor layout showing the proposed layout mirrored so that the kitchen/lounge is to the north of the site and showing the study, utility and stepped-out living room to the south of the site. This will reduce the overlooking of the private amenity area for future residents of the proposed dwelling from the existing dwelling on site. The stepped-out living room area should be single storey only with a flat roof , with no access onto the roof as a balcony.

## 2. Details of surface and wastewater drainage.

- 3.2.1. The planning authority issued a Notification of a Decision to Grant Permission on 26<sup>th</sup> April 2023, subject to 14 no. conditions. The conditions imposed did not require any significant changes to the proposed development.

## 3.3. Planning Authority Reports

### 3.3.1. Planning Reports

- CCC Assistant Planner 12<sup>th</sup> February 2023, recommends request for further information (RFI). Second report of Assistant Planner, [26<sup>th</sup> April 2023, recommends permission.](#)
- CCC Senior Executive Planner 17<sup>th</sup> February 2023 also recommends RFI. Second report of SEP, 26<sup>th</sup> April 2023, recommends permission.

### 3.3.2. Other Technical Reports

- CCC Environment Waste Management & Control, 16<sup>th</sup> January 2023. No objection subject to conditions.
- CCC Senior Executive Engineer, 8<sup>th</sup> February 2023, no objection subject to conditions.

- CCC Drainage Division, 10<sup>th</sup> February 2023, recommends RFI for drainage details. Second report, 19<sup>th</sup> April 2023, notes further information submitted and states no objection subject to conditions.

### 3.4. Prescribed Bodies

- 3.4.1. Submission of Irish Water dated 7<sup>th</sup> February 2023, no objection subject to conditions.

### 3.5. Third Party Observations

- 3.5.1. The planning authority received four no. third party submissions by/on behalf of local residents, which objected to the application for similar reasons to those summarised in the grounds of appeal. Further third party submissions were made on foot of new notices issued by the applicant in relation to significant further information submitted to the planning authority, which also raised similar concerns and considered that the revised proposals submitted as further information did not adequately address the issues raised in the RFI.

## 4.0 Planning History

### 4.1. Development Site

4.1.1. Reg. Ref. 21/40134

Permission granted in June 2021 for retention of elevational change to front of existing dwelling.

4.1.2. Reg. Ref. 22/40870 ABP-313524-22

Permission granted by CCC on 12<sup>th</sup> April 2022 for a two storey house at the development site under reg. ref. 22/408702. The Board refused permission on 12<sup>th</sup> September 2022 under ABP-313524-22 for the following stated reason:

*Having regard to the nature of the site, the scale and layout of the proposed development, the distance of the proposed two-storey structure from the boundary to the west, the layout and disposition of the private amenity space for future occupants and the lack of screening to the private amenity space of the existing dwelling, it is*

*considered that, by reason of its scale, form and design, the proposed development would constitute overdevelopment of a limited site area, would result in inadequate private open space and would seriously injure the amenities of property in the vicinity by reason of proximity and overlooking. The proposed development would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.*

*In deciding not to accept the Inspector's recommendation to grant permission, the Board considered that the two-storey form and scale of the proposed development and the limited distance from the boundary with number 2 Templevale would seriously injure the amenities of property in the vicinity by reason of proximity and overlooking and, notwithstanding compliance with the quantum area proposed, would provide an inadequate and substandard private amenity space for future occupants by reason of its narrow configuration. The proposed development would, therefore, seriously injure the amenities of the area.*

#### **4.2. Vicinity of Development Site**

##### **4.2.1. Reg. Reg. 22/41601 Adjoining Site to North 23 Temple Vale**

Permission sought for the demolition of existing shed and greenhouse and for the new development consisting of the construction of a new part single-storey, part two-storey detached dwelling house to the rear of No. 23 Temple Vale with new vehicular access from Beaumont Avenue, together with all ancillary works including connection to services. CCC sought further information on 2<sup>nd</sup> February in relation to the following issues:

- Considered that the scale, massing and height of the proposed dwelling would adversely impact the visual amenity of the area and would be out of character with the existing dwellings in the location. Revised drawings to show significant reduction in first floor area; reduced overall scale of dwelling; revised roof design to ensure as low a roof profile as possible; windows to upper floor bedrooms to face front elevation only; revised vehicular access; details of sightlines; surface water drainage details; wastewater drainage details.

#### 4.2.2. Other Adjacent Sites

There have also been several other permissions for subdivisions of residential sites and infill dwellings on adjacent sites in Temple Vale, Beaumont Avenue and Beaumont Crescent, see planning report on file dated 12<sup>th</sup> February 2023 for further details.

## 5.0 Policy Context

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

- 5.1.1. The site is located in an area zoned ZO1 Sustainable Residential Neighbourhoods, subject to Zoning Objective 1: To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses. The following related objective applies:

*ZO 1.2 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.*

- 5.1.2. The following development plan policies and objectives are also noted in particular:

*3.46 Cork City Council will support infill development to optimise the role that small sites in the City can play in providing new homes for Cork's expanding population. Within historic parts of the City currently used as commercial urban centres (e.g. the City Centre and historic spine) there is considerable underutilisation of upper floor space. Bringing this space back into productive use as homes will make a valuable contribution to providing new homes, investment in historic buildings and regenerative benefits for commercial areas.*

*Objective 3.9 Adaptation of Existing Homes, Infill Development and Conversion of Upper Floors*

*Cork City Council will support and encourage the adaptation of existing homes (consistent with NPO 35 of the NPF), infill development and the conversion of upper floors in commercial areas in principle to ensure that homes, small sites and vacant*

space are utilised for new housing supply whilst still ensuring high standards of residential amenity for existing adjoining homes.

11.12 All new development should enrich the urban qualities of the city and its towns, villages and suburbs. A high standard of design is essential to this process, as well as the fostering socially and economically viable communities. Creating a distinctive sense of place which takes into account context, character and setting is essential. Development proposals will be assessed on the visual characteristics of the built form and related elements such as aspect and orientation, proportion, the balance of solid to void, the shapes and details of roofs, chimneys, windows and doors and the materials used. Details of walls, gates, street furniture, paving and planting will also be noted. Roof forms should harmonise with and not clash with the city's traditional pitched roof forms. Layouts of buildings and spaces must be designed to ensure that areas are permeable, pleasant, legible and safe.

11.100 Privacy and overlooking are important for quality of life. Levels of privacy will gradually diminish as urban densities increase above 25 dph. This will be taken into account in assessing planning applications.

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. This rule-of-thumb was derived from the Parker Morris Standards of 1919 and was intended to provide adequate privacy for people to enjoy their back gardens. Best practice has since evolved, and lesser separation distances are often appropriate, particularly in an urban context, subject to design solutions and site-specific context. All development proposals will be required to demonstrate that they have been designed to avoid overlooking.

11.102 There are no minimum separation distances for front and street-facing elevations, and distances will generally be derived by the street typology.

11.104 Overbearance in a planning context is the extent to which a development impacts upon the outlook of the main habitable room in a home or the garden, yard or private open space servicing a home. In established residential developments any significant changes to established context must be considered. Relocation or reduction in building bulk and height may be considered as measures to ameliorate overbearance.



*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.*

#### *Objective 11.5 Private Amenity Space for Houses*

*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.*

*The following factors will be material in assessing whether adequate space has been provided:*

- a. The density of the proposed development;*
- b. The context of the development in relation to the size and layout of existing residential plots and the pattern of development;*
- c. The orientation of the outdoor area in relation to the path of the sun;*
- d. The degree to which enclosure and overlooking impact on the proposed new dwellings and any neighbouring dwellings;*
- e. The overall shape, access to and usability of the whole space to be provided;*
- f. Clear delineation of public and private space (avoiding rear boundaries onto streets and public realm);*
- g. The location of the plot in relation to publicly accessible open space and the offer of that space.*

*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. The site is c. 2.5km to the closest point of the Cork Harbour SPA (site code 004030).

## **5.3. EIA Screening**

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

## **6.0 The Appeal**

### **6.1. Grounds of Third Party Appeals**

6.1.1. There are two separate third party appeals submitted by the residents of no. 4 Temple Vale (to the east of the development site) and no. 23 Temple Vale (to the north of the development site). The main points made in both appeals may be summarised as follows:

- The revised design submitted as further information is even more out of character with the area than the original proposal and more than the proposal submitted under ref. 22/40870. The development does not respond positively to its immediate environment and will have a detrimental impact on the character of the estate. The split A-frame design of the development does not take significant design cues from neighbours and represents a significant departure from the uniform design of dwellings in the area. The revised development submitted as RFI was not sufficiently reduced in scale and retains more than two bedrooms,

contrary to the RFI request for same. The size of the façade and the size and number of windows in the proposed dwelling are inconsistent with adjacent houses in terms of height, overall size and position. The dwelling therefore cannot be considered to be sensitively and appropriately designed as per relevant policies and will have significant adverse impacts on residential amenities, contrary to development plan policy.

- The revised design submitted as further information has significant similarities to that refused by the Board under ABP-313524-22 in terms of footprint, excessive scale and bulk and extent of private amenity space. The current impact on the private amenity space of the existing dwelling at the development site is more severe than that of the previous proposal refused by the Board.
- The development should strike a balance between the reasonable protection of established residential amenities and character and the privacy of adjoining residential properties and the need to develop infill sites.
- The development will result in direct overlooking of the rear private amenity space of no. 3 Temple Vale. The application therefore does not address the refusal reason of ABP-313524-22.
- The development will result in overshadowing of adjacent residential properties.
- The dwelling should be revised by condition such that it is significantly reduced in scale to single storey and is set back from the site boundary if permission is granted.

## **6.2. Applicant Response**

6.2.1. None on file.

## **6.3. Planning Authority Response**

6.3.1. None on file.

## **6.4. Observations**

6.4.1. None on file.

## 6.5. Further Responses

6.5.1. None on file.

## 7.0 Assessment

7.1. I have read through the file documentation, the relevant provisions of the City Development Plan, have had regard to relevant local/regional/national policies and guidance and have carried out a site inspection. The main issues are those raised in the planning reports on file and in the grounds of appeal. I consider that the only issues that arise are in relation to potential impacts on visual and residential amenities of the area and particularly at adjacent properties. I note in this regard that the technical reports on file do not raise any other issues, that proposals in relation to site services have been submitted to the satisfaction of the planning authority and of Irish Water and that the proposed infill residential development is acceptable in principle on these residentially zoned lands. I therefore consider that the main issues on this appeal are as follows:

- Impacts on Residential Amenities
- Design and Scale of Development and Impacts on Visual Amenities
- Provision of Private Amenity Space
- Appropriate Assessment.

Each of these issues is addressed in turn below.

### 7.2. Impacts on Residential Amenities

7.2.1. I note at the outset that the current proposal (as per the design submitted to Cork City Council as further information on 21<sup>st</sup> March 2023) has a somewhat smaller footprint and a ridge height c. 0.6m lower than that of the dwelling previously refused by the Board under ABP-313524-22. The rear and side elevations of the proposed dwelling have been designed with high level / obscure glazing in windows to obviate overlooking of adjacent properties to the side or rear. The documentation on file does not include any detailed analysis of potential overshadowing impacts. However, it is considered that the development is not likely to result in any significant adverse

overshadowing impacts on adjacent residential properties with regard to the following matters:

- The orientation of the proposed dwelling relative to adjacent residential properties, apart from the existing dwelling at no. 3 Temple Vale, which is currently unoccupied.
- The low, sloping roof profile of the proposed dwelling.
- The proposed footprint, which is generally in line with the existing dwelling to the north at no. 23 Temple Vale and with that of no. 3 Temple Vale.
- The distances to site boundaries, noting that the two storey element of the development is c. 5m from the western site boundary (the development proposed under ABP-313524-22 had a distance of c. 4m from the western site boundary).

I consider on this basis that the development is not likely to have significant adverse impacts on residential amenities by way of overlooking or overshadowing.

### **7.3. Design and Scale of Development and Impacts on Visual Amenities**

- 7.3.1. The third party appeals submit that the proposed design is out of character with surrounding development and therefore contravenes development plan policy on infill residential development. The current proposed front elevation has a reduced scale from that proposed under ABP-313524-22, noting in any case that the refusal reason in that instance did not refer to the front elevation of that development. Having regard to the submitted contiguous elevations, I consider that the current contemporary design proposal, which features a split pitched roof, represents a reasonable architectural response and is complementary to the surrounding development at Temple Vale, given that the site is not located in an Architectural Conservation Area or at any particularly sensitive location. Full details of external finishes and materials may be agreed by condition to the satisfaction of the planning authority.

### **7.4. Provision of Private Amenity Space**

- 7.4.1. The refusal reason of ABP-313524-22 also refers to inadequate provision of private amenity space for both the proposed dwelling and at no. 3 Temple Vale. The current proposal provides 95 sq.m. of private amenity space for the proposed dwelling and 122 sq.m. of private amenity space for no. 3 Temple Vale, both of which exceed the

minimum quantitative standard of 48 sq.m. private amenity space for new houses as stated in development plan Objective 11.5. Development plan section 11.89 E states that private amenity space for each dwelling should be usable and have a balance of openness and protection, appropriate for its outlook and orientation and development plan Objective 11.5 provides further qualitative guidance on the provision of private amenity space, as set out above. I consider that the proposed layout provides adequate private amenity space for both the proposed house and the existing house at no. 3 Temple Vale with regard to the proposed layout and orientation of the spaces, accessibility to the street, privacy and site boundaries and given that the site is immediately adjacent to an extensive public open space at Temple Vale. I also note in this regard that there have been several permitted infill developments in the wider area, within rear garden areas, with similar layouts to the current proposal.

#### **7.5. Appropriate Assessment.**

- 7.5.1. The site is c. 2.5km to the closest point of the Cork Harbour SPA (site code 004030). Having regard to the nature and scale of the proposed development in an established built-up suburban area on serviced land, and the separation distance to the European site to the subject site, I do not consider that the proposal would be likely to significantly impact the qualifying interests of the European Site during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In conclusion, I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

- 8.1. Having read the appeal and submissions on file, had due regard to the provisions of the Cork City Development Plan 2022-2028, carried out a site visit and all other matters arising. I recommend that permission is granted subject to the conditions set out below.

## 9.0 Reasons and Considerations

9.1. Having regard to the residential land use zoning of the site, the nature and scale of the proposed development, and the provisions of the Cork City Development Plan 2022-2028 including Objective 3.9 Adaptation of Existing Homes, Infill Development and Conversion of Upper Floors, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential amenities of the area or of property in the vicinity in terms of overlooking, overbearing or overshadowing impacts nor would it represent a traffic safety issue. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted on 21<sup>st</sup> March 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed dwelling shall be occupied as a single residential unit and shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>

4.	<p>The name and numbering of the dwelling shall be in accordance with a naming and numbering scheme submitted to, and agreed in writing, by the Planning Authority, prior to the occupation of the dwelling.</p> <p><b>Reason:</b> In the interest of orderly street numbering.</p>
5.	<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><b>Reason:</b> In the interest of public health.</p>
6.	<p>The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the</p>



	<p>area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of the Cork Suburban Rail in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>

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.

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Sarah Moran  
Senior Planning Inspector

16<sup>th</sup> July 2023