



An  
Bord  
Pleanála

Board Order  
ABP-318590-23

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## Planning and Development Acts 2000 to 2022

**Planning Authority: Cork City Council**

**Planning Register Reference Number: 23/42302**

**Appeal** by Pat Kennedy care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 7<sup>th</sup> day of November, 2023 by Cork City Council to refuse permission for the proposed development.

**Proposed Development:** Permission for retention is sought for the two-storey extension to the rear (west) of the property, a small lean-to shed with corrugated plastic roof to the south gable end of the property and the retention of two number Velux windows - one number 1 Velux window to the side (south) elevation and one number Velux window to the side (north) elevation and planning permission is sought for the addition of one number new Velux window to the front (east) elevation and all associated site development works at 1 Churchyard Lane, Ballintemple, Cork.

## Decision

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## Reasons and Considerations

Having regard to the nature, scale, location and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with zoning objective for the site as set out in the Cork City Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to uphold the planning authority's decision and refuse permission, the Board had regard to the existing residential use on the site and the desire to improve the residential amenity/standards of that existing structure, by way of the proposed extension, to ensure its continued use as a residential dwelling. The Board also considered that the site constraints, particularly the drop in ground levels from west to east, limited the design options for extending/improving the existing residential use, and in the circumstances, considered the extension as proposed to be a reasonable response that sought to have due regard to neighbouring properties. In that regard, given the little difference in ground levels between the existing dwelling to the south (Number 1 Avondale Park) and the finished floor level of the patio at 'first floor level' on the application site, the Board was satisfied that the proposed extension would not adversely impact on that neighbouring dwelling to the south by way of overlooking, visual disamenity, overshadowing or overbearance. The Board considered that the greatest potential for impact on existing residential amenity was on the property adjoining to the north. The Board noted the support of the owner/occupant of that neighbouring dwelling to the north, to the proposed development on the application site. The Board noted the Inspector's concerns in relation to bedroom number 1, the ground floor w.c. and the first floor living room but noted that those elements, located within the envelope of the existing dwelling, and not the proposed extension,

did not form part of the application before the Board. The Board also noted the Inspector's concerns in relation to floor to ceiling heights and ventilation, but considered those matters to be subject of separate legal codes (i.e. Building Regulations). The Board was satisfied that, notwithstanding those concerns, that the residential amenity and accommodation of the existing period dwelling on the site would overall, be improved by the development. The Board agreed with the concerns of the Inspector in relation to the location of the only window serving the proposed bedroom number 2 but were satisfied that the amenity of this room could be improved by way of condition (i.e. the removal of the corrugated plastic roofing over the access lane adjacent this window). The Board did not have concerns in relation to the scale or bulk of the extension noting that a considerable volume of that extension was not visible from adjacent properties as it was below the ground levels of adjoining gardens. In relation to matters raised about possible need for consent from third parties in relation to shared boundaries/possibly oversailing of adjacent property, the Board noted the provisions of section 34(13) of the Planning and Development Act 2000, as amended.

## **Conditions**

1. The development shall be retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority within six months of the date of this Order and the development shall be retained and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

- 2 The corrugated plastic roof over the lower yard shall be removed from the area above the window to bedroom 2 as indicated in the plans and particulars submitted with the application. This condition shall be complied with within six months of the date of this Order.

**Reason:** To improve the residential amenity of bedroom 2 by facilitating greater access to daylight via this window.

- 3 Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

- 4 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 within six months of the date of this Order 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.

**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

  
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Tom Rabbette

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

Dated this 18<sup>th</sup> day of July 2024.