



An  
Bord  
Pleanála

## Inspector's Report PL04.248064

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| <b>Development</b>                  | Retain single storey extension and two storey extension to rear        |
| <b>Location</b>                     | 16 Castlemanor Crescent,<br>Gortnahomma more Castlemartyr, Co.<br>Cork |
| <b>Planning Authority</b>           | Cork County Council  |
| <b>Planning Authority Reg. Ref.</b> | 16/07017   |
| <b>Applicant(s)</b>                 | Manju George   |
| <b>Type of Application</b>          | Retention  |
| <b>Planning Authority Decision</b>  | Grant subject to Conditions  |
| <b>Type of Appeal</b>               | Third Party  |
| <b>Appellant(s)</b>                 | Caroline Murray  |
| <b>Observer(s)</b>                  | n/a  |
| <b>Date of Site Inspection</b>      | 11 <sup>th</sup> May 2017  |
| <b>Inspector</b>                    | Mary Crowley   |

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.025 ha is located within an existing housing estate known as “Castlemanor Crescent” within the settlement of Castlemartyr to the east of Cork City. The estate is generally comprised of 2 storey semi-detached and terraced dwellings laid out in linear rows around a central green area.
- 1.2. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file

## 2.0 Proposed Development

- 2.1. This is an application for the retention of a single storey extension and two storey extension to the rear of dwelling. The stated floor area to be retained is 33.49 sqm.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Cork County Council **granted permission** subject to 4 generally standard conditions.

### 3.2. Planning Authority Reports

- 3.2.1. Planning Reports
- 3.2.2. The **Local Authority Planner** having considered the application recommended that planning permission be granted subject to conditions. The notification of decision to grant planning permission issued by Cork County Council reflects this recommendation.
- 3.2.3. Other Technical Reports
- 3.2.4. **Area Engineer** – no objection subject to 2 no conditions as set out in their report relating to surface water and water supply.

### 3.3. **Prescribed Bodies**

3.3.1. There are no reports from any prescribed bodies recorded on the planning file.

### 3.4. **Third Party Observations**

There is one observation recorded on the appeal file from Caroline Murray, No 18 Castle Manor Crescent, Castlemartyr (appellant in this appeal). The issues raised are similar to those raised in the appeal below and relate to overshadowing, overlooking, proximity of the development to the boundary, precedent and external treatment.

## 4.0 **Planning History**

There is no evidence of any previous appeal at this location.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. The operative plan for the area is the **Cork County Development Plan 2014 – 2020**. The site is located within the settlement boundary for **Middleton Electoral Area Local Area Plan**.

### 5.2. **Natural Heritage Designations**

5.2.1. The site is not located within any designated Natura 2000 site and is removed from any designated site. The relevant European sites that are closest to the appeal site are the Cork Harbour SPA (site code 004030), the Great Island Channel cSAC (site code 001058), Ballymacoda Bay SPA (site code 004023) and Ballycottan Bay SPA (site code 004022).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The third party appeal has been prepared and submitted by Caroline Murray, 18 Castlemanor Crescent and may be summarised as follows:
- 6.1.2. **Unauthorised Development** - This is an unauthorised development that has been built without planning permission. The building was completed with no regard for planning laws and regulations and retention permission was only applied for on completion of the building and after a complaint was made to Cork County Council against this unauthorised development.
- 6.1.3. **Loss of sunlight** - The appellant has lived in their property for almost fourteen years and prior to this development their rear garden was flooded in sunlight from late morning until late evening. The appellant has two young children and prior to this two-storey extension their family enjoyed being outside and spent many hours during the summer months in the rear garden weather permitting.
- 6.1.4. **Overshadowing** - The appellant's garden lies approximately 9 metres from the appeal property. Submitted that in mid-February that the shadow cast by the two-storey extension was the entire width of their garden and the outline of the extension could clearly be seen on the most eastern wall of my property – 20 metres from the appeal property. Considered that the decision to grant planning will have a lifelong effect on the appellant's family and their quality of outside living. Submitted that the planners report is inaccurate in relation to both the amount of sunlight received and the overshadowing of the two-storey extension.
- 6.1.5. **Boundary** - The extension to Number 16 Castlemanor Crescent has been built on the boundary fence of the adjoining House Number 15. Submitted that the implied statement on the planners report that the occupants of Number 15 had no objections to the development is incorrect and unfair as there were no occupants of that property. Submitted that the building on the boundary fence did not take place until after the previous occupants of the house had vacated the building. No building should have taken place on the boundary fence without the consent of both parties.

- 6.1.6. **Precedent** - This is the first two-storey extension in the Castlemanor Crescent Estate. The fact that this is an unauthorised development that was built and completed and only then Retention Permission applied for and conditionally granted could not set a precedent in the estate for other unauthorised two-storey developments to take place.
- 6.1.7. **Actual Impact** - The appellant considers it hard to understand how an individual who did not adhere to the planning laws and regulations can apply for and received planning in retrospect, without any consideration of the actual and not hypothetical impact it has on the people affected.

## 6.2. Applicant Response

- 6.2.1. The first party response to the appeal has been prepared and submitted by Harrington O'Flynn Chartered Consulting Engineers and comprised a personal letter from the applicant Manju George that may be summarised as follows:
- 6.2.2. The applicant is a considerate and law abiding citizen. They built the extension in order to meet his family needs and while he familiarised himself with elements of the what constituted exempted development he missed the point that such extensions required to be 2 metres from the boundary. Submitted that the occupier of No 17 or No 15 Castlemanor Crescent had no objection to the development and offered their back gardens if access was required.
- 6.2.3. The appellant is 9 metres away from the applicant's boundary and is situated after another house and after 2 fences clearly showing that the extension is not in breach of any planning laws with her property.
- 6.2.4. In the late autumn, winter and early spring these north facing back gardens never get compete sun. the shade of the house and the original roof always cast some level of shadow in all back gardens. The height of the 2<sup>nd</sup> storey roof is lower than the original roof height. Further the design of the roof was altered by inserting a sloping roof. Submitted that the extension will not make any difference to the appellant's property regarding shadow.

### 6.3. **Planning Authority Response**

6.3.1. There is no response from Cork County Council recorded on the appeal file.

### 6.4. **Observations**

6.4.1. There are no observations recorded on the appeal file

### 6.5. **Further Responses**

6.5.1. There are no further response recorded on the appeal file

## 7.0 **Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Residential Amenity
- Boundary
- Appropriate Assessment Screening
- Development Contributions

### 7.2. **Principle / Policy Considerations**

7.2.1. The applicant is seeking permission for the retention of single storey extension and two storey extension to the rear of his dwelling. The existing dwelling on the site has a floor area of 98sqm. A two storey extension has been added to the rear of the dwelling that totals 33.4sqm (20.5sqm ground floor and 12.9sqm first floor).

7.2.2. The appeal site is wholly contained within the settlement boundary for Middleton Electoral Area Local Area Plan where residential extensions and alterations to an existing dwelling for residential purposes is considered a permissible use. Accordingly, I am satisfied that the principle of the development to be retained to be

acceptable at this location subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

### **7.3. Visual Amenity**

- 7.3.1. I do not consider that the proposed rear two storey extension to be retained would have a significant negative impact on the character or visual amenities of the area having regard to the lower roof ridge height providing a clear definition between the new design and the existing building. Furthermore, I am satisfied that the scale of the extension does not overwhelm or dominate the original form or appearance of the principle house and that the external materials are compatible with the original house and surrounding area.

### **7.4. Residential Amenity**

- 7.4.1. In addition to reconciling the need to maintain the visual amenities and architectural character of the parent building and wider area with the requirement to maximise accommodation any extension should allow for the provision of a reasonable proportion of private amenity space while safeguarding sunlight and daylight both of the development and that of adjoining properties. Having regard to the private amenity space associated with the applicant's house I am satisfied that the scheme proposed will ensure that a reasonable proportion of private open space is retained and that the scheme successfully reconciles the amenity requirements of the owner with the requirement to maximize accommodation.
- 7.4.2. The appellant raises particular concerns regarding the scale of the extension to be retained and that it overshadows her rear garden area. As noted from the site layout plans and observed on day of site inspection the appellant's property is located approx. 9m to the north east of the appeal property with a further terraced house located between both properties. In addition, the rear gardens of these dwellings have a northern aspect. I have considered the appeal submission together with the information available on the appeal file and having regard to the scale of the extension to be retained and its location together with the orientation of these rear gardens I am satisfied that the extension to be retained would not result in any undue overshadowing or loss of sunlight to adjoining properties.



7.4.3. Furthermore, I am satisfied that the rear extension respects the amenity of the neighbouring properties in that it will not result in any unreasonable loss of privacy by means of overlooking having regard to the location of side elevation windows at ground floor only and the adjoining boundary treatment.

## 7.5. **Boundary**

7.5.1. The concerns raised regarding the extension to No 16 Castlemanor Crescent being built on the boundary fence of the adjoining house at No 15 Castlemanor Crescent and that no building should have taken place on the boundary fence without the consent of both parties are noted. As noted on day of site inspection it would appear that the extension follows the line of the existing dwelling along the dividing boundary between No's 15 and 16. The Case Planner notes that *any disputes in relation to same are arbitrated through the civil courts*. In this regard I would draw attention to Section 34 (13) of the Planning and Development Act 2000. If planning permission is granted and if it is considered that a part of the planning permission granted by the Board cannot be implemented because of landownership or title issue then Section 34 (13) of the Planning and Development Act 2000 is relevant. This section of the Act states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

## 7.6. **Appropriate Assessment Screening**

7.6.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site (Cork Harbour SPA (site code 004030), the Great Island Channel cSAC (site code 001058), Ballymacoda Bay SPA (site code 004023) and Ballycottan Bay SPA (site code 004022)) it is reasonable to conclude on the basis of the information available, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site. An appropriate assessment (and submission of a NIS) is not therefore required.

## 7.7. Development Contributions

- 7.7.1. **Section 48 Development Contribution** – Cork County Council has adopted a Development Contribution Scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 2004. No Section 48 Development Contribution condition was attached to the notification of decision to grant permission issued by Cork County Council. According to the Case Planner no contribution is applicable as the extension is less than 60sqm (contribution exemption). I am satisfied that a development contribution is not applicable in this case.

## 8.0 Recommendation

- 8.1. Overall I consider that the development to be retained in its design, form and positioning will not result in an unreasonable loss of privacy or natural light to neighbouring properties and would not be detrimental to neighbouring amenity and character. Therefore, having considered the contents of the application, the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the Cork County Development Plan 2014 – 2020 and the Middleton Electoral Area Local Area Plan, the overall design and scale of the development proposed, the location of the appeal site and the established pattern of residential development in the area it is considered that subject to the conditions set out below, the proposed development would not seriously injure the character or amenities of the of the area or property in the vicinity and would 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 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.

**Reason:** In the interest of clarity

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**Mary Crowley**

**Senior Planning Inspector**

**12<sup>th</sup> May 2017**