



An
Bord
Pleanála

Inspector's Report PL28.248841

Development	Permission for the erection of a conservatory at the rear of dwelling.
Location	No. 3 Inniscarrig Terrace, Western Road, Cork City.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	17/37316
Applicant(s)	Vincent McCarthy
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Patrick O'Toole
Observer(s)	None
Date of Site Inspection	5 th October, 2017
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The site the subject of this appeal is located in an area of Cork City which is characterised by a variety of uses including commercial, residential, institutional and educational. The site comprises a mid-terraced house in a block of four Victorian brick faced terraced houses, which has pedestrian access off the Western Road (N22) to the north. The Western Road at this location operates a one-way system for traffic moving west from the city centre. The south channel of the River Lee bounds the site to the south. University College Cork is located to the north east of the site.
- 1.2. The existing house on the site provides accommodation over three floors residential area to the north of the River Lee in Cork City. There has been a previous extension to the rear of the house. The site has a stated area of 0.036ha.

2.0 Proposed Development

- 2.1. The application to Cork City & County Council was for permission to erect a conservatory to the rear of the house.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development, subject to 6 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officers report formed the basis of the decision. Further information was sought in relation to a number of issues. Appropriate Assessment, Environmental Impact Assessment and Flood Risk Assessment are also dealt with within the report.

3.2.2. Other Technical Reports

Drainage Section: No objection subject to compliance with condition.

Road Design Section: No objection subject to compliance with condition.

3.3. Prescribed Bodies

Irish Water: No objection.

3.4. Third Party Observations

There is a third party submission noted on the Planning Authority's file from Mr. Patrick O'Toole, No. 2 Inniscarrig Terrace. Mr. O'Toole's property lies to the east of the subject site and the objections to the development are indicated as follows:

- There are several unauthorised developments on the site including the subdivision of the house into two separate dwellings.
- Drawings are inaccurate.
- The amenity space available is inadequate for what is effectively an 8no. bedroom house. There is an existing right of way to the rear of the site.
- Issues in relation to unauthorised parking on the right of way.
- The applicant has carried out unlawful connection to the public sewer at the rear of the property.
- The flue from the solid fuel stove does not appear to comply with the Building Regulations.
- Other issues raised relate to the site notice, the presence of unauthorised development and an open enforcement file in relation to same.

4.0 Planning History

4.1. Subject site:

There is an extensive history of complaints against the property indicated in the Planning Officer's report. The following is the recent planning history associated with the subject site.

ABP 28.RL3399: Four questions were posed to the Board as follows:

1. “Whether the development outlined in red on the attached sketch (contained in R394/15) is or is not development and whether it is or is not exempted development”.
2. “Whether the window on the eastern elevation of the existing single storey extension is less than 1m from the boundary wall”.
3. “Is the development outlined in red on the attached sketch (contained in R394/15) under 40 sq. metres when including the section of the existing wall to be demolished”.
4. “Whether the provision of two no. roof windows on the existing single storey extension within one metre of the boundary is exempted development”.

The Board determined that the matter the subject of the referral was development and was exempted development on the 18th day of May, 2016.

4.2. Adjacent site to the east:

ABP ref PL28.229360 (PA ref 08/32901): Permission was refused on appeal for the retention of works to the front boundary of the property which comprised the modifications and re-use of the boundary railings to facilitate the provision of side-hung gates, and all necessary minor ancillary works. Permission was refused for 2 reasons relating to the impact on the architectural integrity and visual amenities of the terrace and traffic hazard.

ABP ref PL28.229347 (PA ref 08/32907): A concurrent application to the above for the creation/formation of a vehicular entrance at the front boundary. Permission was refused on appeal for similar reasons to the above.

5.0 Policy Context

5.1. Development Plan:

- 5.1.1. The Cork City Development Plan 2015 – 2021 is the statutory Development Plan for the city of Cork. The subject site is located within an area of Cork City which is zoned ZO4, Residential, Local Services and Institutional Uses, where it is the stated objective of the zoning to ‘protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies.

5.1.2. Chapter 16 of the City Plan deals with Alterations to Existing Dwellings. Section 16.72 of the Plan states as follows:

The design and layout of extensions to houses should have regard to the amenities of adjoining properties particularly as regards sunlight, daylight and privacy. The character and form of the existing building should be respected and external finishes and window types should match the existing.

Extensions should:

- Follow the pattern of the existing building as much as possible;
- Be constructed with similar finishes and with similar windows to the existing building so that they will integrate with it;
- Roof form should be compatible with the existing roof form and character. Traditional pitched roofs will generally be appropriate when visible from the public road. Given the high rainfall in Cork the traditional ridged roof is likely to cause fewer maintenance problems in the future than flat ones. High quality mono-pitch and flat-roof solutions will be considered appropriate providing they are of a high standard and employ appropriate detailing and materials;
- Dormer extensions should not obscure the main features of the existing roof, i.e. should not break the ridge or eaves lines of the roof. Box dormers will not be permitted where visible from a public area;
- Traditional style dormers should provide the design basis for new dormers;
- Front dormers should normally be set back at least three-tile courses from the eaves line and should be clad in a material matching the existing roof;
- Care should be taken to ensure that the extension does not overshadow windows, yards or gardens or have windows in flank walls which would reduce the privacy of adjoining properties.

5.1.3. The Inniscarrig Terrace, nos, 1-4, are all individually listed in the National Inventory of Architectural Heritage and are identified as being of regional interest. It is the stated objective of the Cork City Development Plan, Objective 9.28 refers, to protect structures of built heritage interest.

5.2. **Natural Heritage Designations**

The site is not located within any designated site.

6.0 **The Appeal**

This is a third party appeal.

6.1. **Grounds of Appeal**

The grounds of appeal reflect the issues raised during the Planning Authority's assessment of the proposal and are summarised as follows:

- The development will exacerbate the intensification of the residential use. As 5 of the 7 bedrooms are let on the private rental market, comprising 72% of rooms, the primary residential use is now ancillary to the current use of the property as a commercial venture.
- Despite the findings of the Planning Authority, significant concerns remain regarding the sub-division of the property. There are separate cooking facilities for the house owner and tenants. Appellant disagrees that the unauthorised shed on the riverbank is not used for human habitation. Recent advert for the property submitted.
- Inadequate amenity space available for the level of occupancy.
- No planning permission exists for the parking space to the rear of the house and is unauthorised.
- Unlawful connection to public sewer which has resulted in problems for neighbours.

6.2. **Applicant Response**

The first party has responded to the third party appeal refuting that there has been an intensification of use or that there is any unauthorised development on the site. There is adequate amenity space provided and no unauthorised parking. All connections to the public services were made under supervision.

6.3. **Planning Authority Response**

The PA has responded to this third party appeal, advising no further comments.

6.4. **Observations**

None

7.0 **Assessment**

On the date of my site inspection, I could not gain access to the house itself. The neighbour provided access to the rear of the property by opening a gate on the right of way which runs along the boundary of no. 4 Inniscarrig Terrace. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. General Compliance with the Cork City Development Plan & General Development Standards
2. Third party appellant issues
3. Appropriate Assessment

7.1. **Compliance with the Cork City Development Plan & General Development Standards:**

- 7.1.1. The development before the Board provides for the construction of a conservatory to the rear of an existing terraced dwelling. The subject site is located within an area of Cork City which is zoned ZO4, Residential, Local Services and Institutional Uses, where it is the stated objective of the zoning to 'protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies'. In this regard, it is considered that the principle of the proposed conservatory extension is acceptable and in compliance with the existing policy and objective applicable to the subject site.

7.1.2. Chapter 16 of the Plan deals with Development Management Standards and Part D relates to Alterations to Existing Dwellings as indicated in Section 5.1.2 of this report. In this regard, the following is relevant:

The extension:

- follows the pattern of the existing building
- is to be constructed with similar finishes and with similar windows to the existing building so that they will integrate with it.
- roof form is compatible with the existing roof form and character.
- does not provide for dormer windows
- will not overshadow windows, yards or gardens or proposes windows in flank walls which would reduce the privacy of adjoining properties.

7.1.3. I am satisfied that the design and layout of the extension has regard to the amenities of adjoining properties particularly as regards sunlight, daylight and privacy. The character and form of the existing building is respected and external finishes and window types match the existing.

7.2. **Third Party Appellant issues**

7.2.1. The Board will note that the third party considers that there has been an intensification of use of the house, that there are unauthorised developments on the site and disagrees with the opinion of the planning authority in terms of the use of the shed. The proposed development seeks the construction of a conservatory to the rear of the house. I am satisfied that there does not appear to be issues of unauthorised development occurring at the site, but in any case, such issues are a matter for the Planning Authority and not the Board. I am further satisfied that the construction of a conservatory does not represent an intensification of use of the residential site.

7.2.2. The proposed development of a conservatory does not reduce the private amenity space below 40m². I note that the Cork City Development Plan requires that terraced houses in the City Centre provide 30m² per unit. As such, and while I acknowledge the concerns of the third party, I am satisfied that adequate private amenity space is provided to serve the dwelling.

7.3. Appropriate Assessment

- 7.3.1. The closest European Sites are the Cork Harbour SPA (site code 004030) and the Great Island Chanel cSAC (site code 001058). Having regard to the nature of the site, being a developed residential site, together with the minor nature and scale of the works proposed, no Appropriate Assessment issues arise and it is not considered 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

I recommend that planning permission be granted for the proposed development for the following stated reasons.

9.0 Reasons and Considerations

Having regard to the provisions of the current Cork City Development Plan, 2015-2021, the existing established residential use, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application together with the information submitted in the appeal, the Board is satisfied that, subject to compliance with the following conditions, the proposed development generally accords with the policy requirements of the relevant plans as it relates to residential extension, would be acceptable and would not injure the existing visual and residential amenities of properties in the vicinity of the site. It is concluded that the development, would be acceptable in terms of 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, submitted the 13th day of March 2017, and further information submitted to the Planning Authority on the 19th day of May, 2017 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the

subject of written agreement and shall be implemented in accordance with the agreed particulars.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

3. The external finishes of the proposed extension, including roof tiles, shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall be erected on the site or within the rear garden area, without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling and in the interest of the amenities of the area.

A. Considine

Planning Inspector

7th October, 2017