



An
Bord
Pleanála

Inspector's Report 300365-17.

Development	Construct dwellinghouse, new entrance to existing house, site works.
Location	41 Lake Lawn, Browningstown, Well Road, Douglas, Cork.
Planning Authority	Cork City Council.
Planning Authority Reg. Ref.	17/37568.
Applicant	Mary Long.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant	Denis and Mary Nagle.
Observer	None.
Date of Site Inspection	13 th February 2018.
Inspector	Mairead Kenny.

1.0 Site Location and Description

- 1.1. The site is located in the inner suburban area of Browningstown, Douglas in the south-east area of the city and north of the N40. The dominant use in the areas residential and the estates appear to have been laid out in the 1950s. The density of development is reasonably low and some of the residential cul-de-sac streets are narrow. There is an old historic lane known as Hettyfield Lane in the immediate vicinity of the site, which it is stated once connected older settlements. The laneway runs immediately west of the subject site and also crosses a residential road to connect further up towards the north. The part of the laneway which concerns the subject appeal is no longer the true way, having been cut off from access to the south by development at that location.
- 1.2. The site of the proposed development is at the end of a cul-de-sac of 17 no. houses, which are primarily semi-detached. The subject site has a large garden which is bounded by two-storey residential development to the north and by Hettyfield Lane to the West. The boundary with Hettyfield Lane is marked by a low stone wall in which there is a small pedestrian gate. The access to the site at the south-eastern corner adjoins a turning head which serves the small residential road. A detached dwellinghouse (no. 39) is also served by the turning head. The existing house on site has a hipped roof and at attic level there is a dormer window which faces to the west.
- 1.3. Photographs of the site which were taken by the time of my inspection are attached.

2.0 Proposed Development

- 2.1. Permission is sought for development of a house in a side garden comprising:
 - A detached two-storey house with 2 bedrooms and attic level.
 - Overall floor area of 195 m².
 - Revisions to the front boundary wall adjoining turning house to provide parking to existing house.

- Laying out of 3.5 m wide vehicular access driveway and parking to serve new house.
- All site works.

2.2. Part V – certificate of exemption attached.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to grant permission subject to conditions including:

- Details of entrance driveway.
- Construction phase measures including noise and soil disposal and wastes.
- Separate drainage systems.
- Contributions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The main points of the report include:

- Site layout results in a rear garden which would be similar to those serving existing houses.
- Scale of house similar to existing.
- Overlooking issues raised would be typical to a suburban area and similar to existing.
- The stone wall is a matter for the applicant in terms of the standard of development. A higher wall may be required for privacy and this can be addressed – scope under the exempted development regulations.
- Pedestrian entrance in place for years and not appropriate to deal with under application – if a pedestrian access is required then the applicant will have to seek necessary consent.

3.2.2. Other Technical Reports

Road Design – no objection subject to conditions.

Drainage – no objection subject to conditions.

Environment – no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water – no objection.

3.4. Third Party Observations

Objections received from occupants of 2 no. of nearby houses. Apart from the concerns which are reiterated in the appeal, the occupants of 58 Lake Lawn indicate serious concerns in relation to impact on privacy.

4.0 Planning History

Under PL 28.244823 the board upheld the decision of the planning authority to grant permission for construction of the dwellinghouse at a site at the end of Hettyfield Lane.

5.0 Policy Context

5.1. Development Plan

Cork City Development Plan 2015 – 2021 - section 16.58

The criteria to be taken into account in assessing proposals for dwelling houses in corner / garden sites include:

- the existing character of area
- compatibility of design and scale
- impact on residential amenities
- provision of adequate parking and safe means of access and egress
- landscaping and boundary treatments.

5.2. **Natural Heritage Designations**

None relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The appeal relates to the proposed development in the absence of appropriate conditions and refers to:

- Sole rights of appellant to the laneway and lack of permission for pedestrian gateway at site of proposed development, which should be omitted by condition.
- Condition required to ensure that the old stone wall is protected during construction.

6.2. **Applicant Response**

The applicant notes:

- The boundary wall is to be maintained.
- The pedestrian entrance has been in existence for over 30 years.
- Lake Lawn will be used for construction and has been adequate for other developments by my neighbours.

6.3. **Planning Authority Response**

The planning authority has no further comments.

6.4. **Observations**

None.

7.0 Assessment

The issues arising in the application and appeal relate to the adjacent laneway and the impact of the proposed development on the adjacent residential properties.

Hettyfield Lane and stone wall

Regarding the historic integrity of the adjacent Hettyfield Lane, my opinion is that the proposed development, would not interfere with the use of the lane or detract from its character. In this regard I note that the proposal does not involve alterations to the side wall. I note that the planning authority refers to the exempted development provisions and the possible need for a screen wall to the side of the proposed house to ensure privacy. I recommend the attachment of a specific condition to address the matter of any future boundary screen, which may include planting as suggested by the applicant. Installation of an independently mounted panel fence would also be feasible without impinging on the integrity character of the wall.

Regarding the condition of the stone wall I formed the opinion at the time of inspection that its condition is good. The development is to be setback from the stone wall by 1.5m.

The appellant requests that the existing gate be removed and that this be addressed by condition. There is no indication from information presented that the gateway is infringing on the use of the laneway or on property rights. It would appear to me to be acceptable in terms of the proper planning and development of this area that pedestrian permeability be encouraged. The gate is stated to be in situ for decades. I consider that any condition which would require the removal of this gate would not be reasonable or necessary for the purposes of the development.

Regarding the use of the laneway during construction, I consider it reasonable to require that this matter be agreed with the planning authority under a construction management plan, which would also address construction noise and waste and other matters raised in the decision of the planning authority.

Residential amenity and design

The appellant's residence at Elgan Lodge is separated from the side wall of the proposed house by the laneway and the overall separation distance from the front façade of the appellant's house to the side wall of the proposed house is over 25m.

There is an attic level dormer window at the existing house. The fenestration of the proposed house does not include windows above the ground floor level. From the ground floor level windows there would be views to the laneway and the first party indicates that planting is to be undertaken to provide privacy to future occupants. I agree with the assessment of the planning authority and consider that the development is acceptable in terms of the degree of overlooking of the appellant's house.

I note the contents of the letter of objection from the owner / occupier of a house to the rear and refer the Board to its detail. I consider that the 19m separation between the existing house at number 58 and the proposed house complies with reasonable requirements in this suburban area and agree with the decision of the planning authority in this respect.

Regarding overshadowing and visual impact I do not consider that significant impacts would arise, to warrant any modification of the proposed development having regard to the pattern of development in this low density suburban area. I note the appeal reference to the requirements of the Urban Design Manual and consider that this development adheres sufficiently to the principles therein.

All of the matters of relevance to this application can be addressed by condition.

8.0 Recommendation

I recommended uphold the decision of the planning authority to grant permission for the reasons and considerations and subject to conditions below.

Reasons and Considerations

Having regard to the residential zoning for the site of the proposed development, the pattern of development in the area, the design and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out 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.

2. Details of any screen planting or fencing to serve western boundary of the proposed development, which shall complement and protect the stone wall adjacent Hettyfield Lane shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

4. Prior to the commencement of development, 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.

Reason: In the interest of orderly development and the visual amenities of the area.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development

Reason: In the interests of visual and residential amenity.

6. 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 the commencement of development. This plan shall provide details of intended access arrangements and of construction practice

for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of amenities and public safety.

7. 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 prior to the 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.

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.

Mairead Kenny
Planning Inspector

19th February 2018