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Pleanála

## Inspector's Report ABP 310622-21

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<b>Development</b>	Construct single storey extension to front and part single storey/part two storey extension to side of dwelling.
<b>Location</b>	1 Woodland Drive, College Wood, Mallow, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	21/4856
<b>Applicants</b>	Donal and Emer Murphy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. grant
<b>Appellants</b>	Timothy Crotty & Carmel Dermody
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17/08/21
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

No.1 Woodland Drive is a two storey, detached dwelling in the College Wood residential estate accessed from Bear Forest Road to the south of Mallow town centre. The estate comprises of a mix of detached and semi-detached dwellings served by front and rear gardens.

No.1 has a single storey side annex recessed from the front wall of the main dwelling with a side gate allowing for access to the rear garden. The site is side-on to Nos. 15 – 17 Meadowlands to the south-east with the shared boundary forward of the front building line of the dwelling delineated by a 2 metre wall with a 2 metre high fence backed by planting along the remainder.

No.16 Meadowlands which backs onto the appeal site has a recently constructed single storey extension to the rear.

## 2.0 Proposed Development

The proposal entails a part single, part two storey extension to the side of the dwelling. The ground floor extension is to be brought forward and is to have a building line to match the existing bay window in the front elevation. The ground floor extension is to retain a setback of 1.060 metres from the south-eastern boundary. The 1<sup>st</sup> floor extension is to recessed back from that of the ground floor. The additional floorspace at 1<sup>st</sup> floor level is to allow for a reconfiguration and increase in the size of the existing bedrooms and ensuite serving bedroom 1. A window serving the relocated bathroom is proposed in south-eastern elevation.

The additional floor space has a stated area of 35 sq.m.

The application is accompanied by a shadow study

Unsolicited further information was received by the planning authority on 10/05/21 addressing the issues raised by the objection to the proposal in terms of the impact of the extension on adjoining property.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission for the above described development subject to 9 conditions. Of note:

Condition 4: 1<sup>st</sup> floor window in south-eastern side elevation of extension to be permanently finished in obscure glazing.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Area Planner notes:

- The proposal would integrate satisfactorily with the existing dwelling and is acceptable in terms of visual amenity.
- The development would not be injurious to the amenity of neighbouring property by virtue of undue overlooking.
- A shadow study was submitted. No significant impact would arise.

A grant of permission subject to conditions recommended.

#### 3.2.2. Other Technical Reports

Area Engineer has no objection subject to conditions.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

An objection to the proposal received by the planning authority considers that the extension would adversely impact the amenities of adjoining property.

A submission in favour of the proposal also on file.

## 4.0 Planning History

I am not aware of any previous planning applications on the site.

## 5.0 Policy Context

### 5.1. Development Plan

Mallow Town Development Plan, 2010

The site is within an area zoned 'established residential'.

Section 15.4.6 House Extensions

In assessing an application for an extension the planning authority will have regard to the following:

- Existing site density,
- Remaining private open space,
- The size of extension shall have regard to the size of the existing dwelling,
- The design of the extension will be required to respect and integrate with existing dwelling in terms of materials used, finishes, windows, proportions etc. Flat roofed extensions visible from the front will not normally be permitted,
- Impact on adjoining residences,
- Extensions will not generally be allowed to break the existing front building line,
- No loss of primary car parking.

### 5.2. Natural Heritage Designations

Blackwater River (Cork/Waterford) SAC (site code 2170) is c. 220 metres to the north.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The 3<sup>rd</sup> Party appeal is by the occupants of No. 16 Meadowlands to the south-east and perpendicular to the appeal site. The submission, which is accompanied by supporting detail, can be summarised as follows:

- The proposed 1<sup>st</sup> floor window will be positioned directly opposite the rear elevation of their property and will result in overlooking to their dwelling and rear garden. It is not specified whether the window is to have an opening. The presence of the large window presents a sense of overlooking as it is dominant and oppressive and results in loss of privacy regardless of the opacity. It should be omitted. There is no requirement for a window to serve the bathroom under fire and building regulations. A roof light could provide for natural light.
- The proposed window contravenes the objectives of the Sustainable Residential Development in Urban Areas in terms of overlooking and privacy.
- The applicant is incorrect in stating that the 22 metre rule only applies to opposing windows at 1<sup>st</sup> floor level which serve habitable rooms.
- The College Wood estate design and layout reflects the 22 metre guideline. Virtually all houses are orientated such that the rear elevation of a house directly faces the rear elevation of another with 22 metres between opposing 1<sup>st</sup> floor windows. The absence of 1<sup>st</sup> floor windows in dwellings perpendicular to each other within the estate is deliberate in adherence with the said referenced guidelines.
- The proposal would set an undesirable precedent in the estate.

### 6.2. Applicant Response

The response can be summarised as follows:

- The appeal is vexatious and should be dismissed.

- The window on the south-east elevation will be permanently frosted and non-opening. A condition requiring the window to be non-opening is acceptable.
- There will be no overlooking or loss of privacy.
- The window will be located 11.4 metres from the nearest opposing window of No.16 Meadowlands.
- There are numerous cases in College Wood where windows serving habitable rooms directly oppose windows serving non-habitable rooms where the 22 metre separation distance is not met.
- The proposal would not set an undesirable precedent.

### 6.3. Planning Authority Response

None.

### 6.4. Observations

None.

## 7.0 Assessment

I consider that the issues arising in the case relate to the impact on the amenities of adjoining property.

The appeal site is within the residential estate of College Wood comprising of 2 storey, detached and semi-detached houses within an area zoned 'established residential' in the Mallow Development Plan. Whilst extensions and alterations to an existing dwelling are acceptable in principle there is an obligation to reconcile the need to meet the requirements of the applicants with the requirement that such works should maintain the visual amenities and character of the parent building and wider area, whilst not compromising the residential amenities of adjoining properties.

No.1 Woodland Drive is the north-west and perpendicular to the appellants' property (No.16 Meadowlands) to which a ground floor rear extension has recently been added. There is a differential in the ground levels with the appellants' property approx. 1 metre higher.

The proposed extension entails a ground and 1<sup>st</sup> floor extension providing an additional floor area of 35 sq.m. allowing for a reconfiguration of the 1<sup>st</sup> floor accommodation including increase in the size of the bedrooms and relocation of the bathroom. The ground floor extension is to maintain a setback of 1.060 metres from the shared boundary with the appellants property with the first floor to have a setback of 2.1 metres. The existing 1<sup>st</sup> floor has a setback of approx. 3.6 metres from the boundary. As noted the shared boundary is delineated by a 2 metre high timber fence backed with planting. A shadow analysis accompanies the application showing that the extension would not result in overshadowing of adjoining property.

I consider that the extension is modest in scale and is appropriate in design comprising a contemporary palette of finishes including vertical timber cladding. The substantive issue pertains to the 1<sup>st</sup> floor window opening proposed to serve the bathroom in the south-east elevation. The appellants consider that the opening gives rise to the perception of overlooking and loss of privacy to their dwelling and rear garden area and that the 22 metre separation requirement between opposing windows should be applied.

Obscure glazing is proposed to be used in the opening with the applicants, by way of appeal, confirming that they are willing to accept that it be non-opening. I would concur with the applicants that the application of the above 22 metre separation requirement is more appropriately applied between windows serving habitable rooms and, as noted, in section 7.4 of the Guidelines on Sustainable Residential Development in Urban Areas the requirement should be applied flexibly for non-habitable rooms. I would also submit that such scenarios with windows in gable elevations perpendicular to other dwellings is not unusual in urban settings and I do not consider that it would not set an undesirable precedent.

On the basis of absence of outlook from the proposed window opening overlooking and loss of privacy would not arise and therefore the appellants' residential amenities would not be adversely impacted.

#### *Appropriate Assessment – Screening*

Having regard to the location of the site and the nature and scale of the proposed development it is concluded no appropriate assessment issues arise as the

proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the vicinity it is considered that, subject to compliance with the conditions set out below the proposed development would be acceptable in terms of scale, design and use, and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, 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.

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 1<sup>st</sup> floor window in the south-eastern elevation serving the proposed bathroom shall be glazed with obscure glass and shall be non-opening.

**Reason:** To prevent overlooking of adjoining residential property.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

5. The drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road or adjoining properties.

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

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**August, 2021**