



An
Bord
Pleanála

Inspector's Report

ABP-313689-22

Development	Retention of outdoor deck and steps to rear of existing dwelling.
Location	Sundance, Camden Road, Crosshaven, Co Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	224548
Applicant(s)	Ronan Murphy
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal
Appellant(s)	Ronan Murphy
Observer(s)	Frances Burns
Date of Site Inspection	6 th April 2023
Inspector	Eoin Kelliher

1.0 Site Location and Description

- 1.1. The subject site is located within a residential area to the northeast of Crosshaven Village, County Cork. The site is accessed from Camden Road which connects the village to Camden Fort Meagher, a former artillery fortification at the entrance to Cork Harbour. The topography of the area falls sharply from the road towards the coastline. The road is lined with residential properties of various designs orientated towards the harbour.
- 1.2. The site has a stated area of 0.054ha and comprises a two-storey detached house set back from the road with a forecourt to the front and an outdoor deck and lower garden to the rear. The topography of the site drops circa 10m from front to back. The common boundaries of the site (east and west) are defined by a mix of hedges and timber and steel fences. A low steel fence defines the northern boundary of the site.
- 1.3. The dwelling on the site has a contemporary design and is set into the slope of the site with living accommodation on the upper ground floor and bedroom accommodation on the lower ground floor. The living accommodation opens onto a roof terrace to the rear of the house. The lower level of the house adjoins a newly constructed outdoor deck projecting from the rear of the house; external stairs connect the deck to the lower garden. French doors provide direct access from the master bedroom to the deck. Glass balustrades are being stored on site and have yet to be installed. The lower garden contains a recently installed timber gazebo housing a jacuzzi.
- 1.4. The property to the east of the subject site ('Crosstrees') comprises a detached two-storey house with attic accommodation and a balcony to the rear serving the living accommodation on the upper ground floor; the bedrooms of the house are primarily located on the lower ground floor and adjoin a terrace.
- 1.5. The property to the west of the subject site ('Tivoli') comprises a modern detached two-storey house with a terrace to the rear serving living accommodation on the lower ground floor; this house also has a roof terrace accessed from the upper ground floor.

- 1.6. The lands immediately to the north of the site have not been developed and are covered in vegetation.

2.0 Proposed Development

Permission is sought to retain the outdoor deck and stairs installed to the rear of the house. The deck has a stated floor area of 71sq.m, projects 5.8m from the rear of the house and is supported by steel columns sitting on a retaining wall. The deck sits circa 3.6m above the level of the lower garden due to the level differences across the site. There is an embankment beneath the deck which is largely covered in grass. The deck abuts directly onto the eastern boundary of the site for 2.97m and is set back circa 3m from the western boundary of the site. External steel stairs on the western side of the deck provide access to the lower garden.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 4th May 2022 Cork County Council decided to refuse permission due to overlooking and overbearing impacts on the adjoining residential properties and the deck's visually incongruous and discordant nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planner's report acknowledges that numerous houses in the area have balconies / raised terraces but considers the subject deck to be excessive in depth and located too close to third party boundaries, thereby resulting in an unacceptable level of overlooking. The Area Planner also considered the deck excessive in size and scale resulting in an incongruous and visually overbearing structure.

The Area Planner raised concerns regarding the precedent the development would set for similar development in the area and recommended refusing permission on residential and visual amenity grounds. Procedural issues were also raised insofar

as the planning application did not seek permission for works required to finish the deck, namely the installation of the glass balustrade to the perimeter of the deck.

The Area Planner's recommendation was endorsed by the Senior Executive Planner and is reflected in the decision of the Council.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Two third party observations were made by the residents of the neighbouring properties, 'Crosstrees' and 'Tivoli'. The main issues raised are summarised as follows:

- The proximity and elevation of the outdoor deck relative to 'Crosstrees' compromises the privacy of its ground floor bedrooms; a condition that some form of screening be provided on the eastern side of the deck may allay these concerns.
- The current retention application is for a raised terrace structure that is significantly greater in dimension than that previously granted under planning application reg. ref. 08/4908.
- The desire to maximise views / outdoor amenity space needs to be balanced with the need to protect the amenity of adjoining properties. Providing for a large balcony off the living area and a smaller balcony off the bedroom, as originally permitted and the case at 'Tivoli', would be fair and reasonable.

4.0 Planning History

P.A. reg. ref. 08/4908: Cork County Council granted permission on 16th April 2008 for the demolition of an existing dwelling house and the construction of a two-storey dwelling house.

The permitted development included an outdoor terrace to the rear of the house spanning the full width of the site. The terrace was to extend circa 2.8m from the rear elevation of the house on its western side and circa 6.8m on its eastern side. The permitted terrace was not constructed.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

The subject site is located within the development boundary of Crosshaven and Bays in an area zoned 'Existing Residential / Mixed Residential and Other Uses'.

Section 18.3.3 of the County Development Plan states, *inter alia*, that the objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties.

The site is located within an area identified as a High Value Landscape. Camden Road is identified as a Scenic Route.

5.2. Natural Heritage Designations

None of relevance.

6.0 The Appeal

6.1. Grounds of Appeal

This First Party appeal was made by Coughlan DeKeyser Architects on behalf of the applicant. The grounds of appeal are summarised as follows:

- The 2008 planning permission for the existing dwelling on the site included an external deck to the rear of the house extending 6.8m and 2.8m from the lower ground floor on the east and west sides respectively; the floor area of

the permitted deck is 75.4sq.m. The permitted deck was not constructed by the previous owners of the property.

- The constructed deck is very similar in size, scale and height to that permitted in 2008, being 4.4sq.m smaller in floor area and projecting 1m less than the largest projection of the permitted deck. The level of the deck to be retained is marginally higher (140mm) than the permitted deck.
- The permitted deck extended the full width of the site and would have had an impact on the adjoining neighbours; the deck as constructed is set back from the western side boundary and is stepped along the eastern side boundary.
- The existing retaining wall on the site provided a suitable fixing point for the deck supports. The steps to the lower garden were in a poor state of repair and have been replaced and incorporated into the deck.
- The applicant was not aware that permission was required for the deck as it is broadly the same size as that permitted in 2008; the applicant is willing to install planting/screening on the east and west sides of the deck to allay any concerns regarding perceived overlooking.
- Once finished the deck would be of good quality and materials and in keeping with the dwelling, which has similar type of glazing to the upper external roof terrace. There are several similar glazed balconies/decks in the immediate vicinity.

6.2. Planning Authority Response

No further comments.

6.3. Observations

An observation was received from Frances Burns of 'Crosstrees', the property to the east of the appeal site. The observation can be summarised as follows:

- The proximity and elevation of the outdoor deck to be retained relative to the boundary and ground floor of 'Crosstrees' compromises the privacy of its downstairs bedrooms.

- The reason for refusal given by the planning authority captures the concerns of the observer.

7.0 Assessment

7.1. I consider the following to be the main issues to be addressed in this appeal:

- Overlooking
- Visual Impacts
- Other Matters
- Appropriate Assessment

7.2. Overlooking

- 7.2.1. In the first instance I note that the private amenity spaces to the rear of the subject and adjoining properties ('Crosstrees' and 'Tivoli') experience a high level of overlooking relative to conventional rear gardens because of their steep downward gradient. Furthermore, the houses have elevated terraces and balconies which take advantage of views of Cork Harbour but also result in a higher degree of mutual overlooking than would normally arise. I am of the view that the amenity value of these rear gardens is more closely related to their aspect than the level of privacy they afford and that a greater degree of flexibility should be allowed in terms of assessing overlooking impacts.
- 7.2.2. Whilst I note the appellant's argument that a larger terrace spanning the full width of the house was permitted under planning application reg. ref. 08/4908, this terrace was shown to sit circa 1.6m above the level of the lower garden on the elevation drawings submitted with the application. The deck to be retained sits circa 3.6m above the lower garden level with much greater potential for adverse overlooking impacts on adjoining properties.
- 7.2.3. My concerns in respect of overlooking impacts primarily relate to views from the deck into the adjoining dwellings. To the west, the deck provides uninterrupted views back into the living room on the lower ground floor of 'Tivoli' and its associated terrace. I note the extensive amount of glazing on the lower ground floor of 'Tivoli' particularly. Installing a 1.8m high privacy screen along the western side of the deck would,

however, address the overlooking impacts arising at this location. It would also have the effect of significantly reducing overlooking impacts on the rear garden of this property.

- 7.2.4. To the east, the deck to be retained provides views into the lower ground floor bedrooms of 'Crosstrees', albeit to a lesser extent owing to the smaller size of their windows. Again, I am of the view that that these overlooking impacts could be mitigated by way of a 1.8m high privacy screen along the eastern side of the deck; this would also afford a greater level of privacy to the terrace adjoining the lower ground floor of this property.
- 7.2.5. The deck is sufficiently removed from the dwellings to the north and northwest of the site so as not to give rise to adverse overlooking impacts on these properties, particularly given their layout and orientation towards the coastline. These properties are, in any event, overlooked from the lower garden to the rear of the house and, as such, any additional overlooking impacts arising from the deck would be negligible.
- 7.2.6. The external steel stairs installed to the west of the deck replaced steps that previously existed at this location and provide access to the lower rear garden. Any overlooking impacts from the stairs would be intermittent and no greater than those that previously arose at this location.
- 7.2.7. In summary, I consider overlooking impacts on adjoining properties can be addressed by way of a planning condition that a 1.8m high privacy screen be installed on the east and west sides of the deck. I note that the applicant is amenable to installing planting or screening on both sides of the deck to address any concerns the Board may have in this respect.

7.3. Visual Impact

- 7.3.1. Whilst I acknowledge the utilitarian appearance of the underside of the deck as viewed from the lower garden area within the subject site, oblique views from the adjoining properties are not adversely impacted given the height of the hedges along the common boundaries. Having regard to the circa 3m separation distance (as scaled from plan drawing) between the deck and the western boundary of the site and its stepped configuration along the eastern boundary, I am also satisfied that the deck, inclusive of the recommended 1.8m high privacy screens, would not appear visually overbearing on the adjoining properties.

- 7.3.2. From a distance, and most notably the private road to the north of the subject site, the impact of the deck on the visual amenity of the area would be negligible as the underside and supporting structure of the deck would barely be visible. The design and finishes of the deck including the glass balustrades yet to be installed are in keeping with the overall architectural language of the house. The recommended privacy screens to the sides of the deck should comprise opaque glass in the interest visual coherency.
- 7.3.3. I note that the deck is not visible from Camden Road, which is identified as a scenic route in the County Development Plan. Furthermore, the deck is not of such a scale to render it visually discordant on the wider landscape, which is designated a High Value landscape in the County Development Plan.

7.4. Other Matters

- 7.4.1. Whilst the Area Planner raised concerns that the size of the deck lends itself to the intensification of an amenity use with consequential impacts on adjoining properties, I note that the deck is accessed from the master bedroom of the lower ground floor of the house and removed from the main living accommodation on the upper floor of the house. As a private amenity space primarily intended for the use of the occupants of the dwelling, any intensification of the existing outdoor amenity use arising would, in my view, be negligible.
- 7.4.2. I note that the deck to be retained is substantially complete and whilst the development description does not refer to minor works required to complete the deck, the development was adequately described for the purposes of informing the public of its nature. The works required to complete the deck can be addressed by way of a condition; I recommend a timeframe of six months from the date that permission is granted.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the scale and nature of the development to be retained, its location in a built-up area, and the distance to the nearest European sites and the absence of known pathways to European sites, it is considered that the development would not be likely to have a significant effect individually, or in combination with other plans or projects, on a European site. Accordingly, Appropriate Assessment is not required.

8.0 Recommendation

- 8.1. Having regard to the foregoing I recommend that permission be GRANTED for the following reasons and considerations subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the policies and objectives of the Cork County Development Plan 2022-2028, the design, location and finishes of the outdoor deck, and the character and pattern of development in the area, it is considered that the development to be retained would not, subject to compliance with the conditions set out below, have an adverse impact on the residential amenity of adjoining properties or the visual amenity of the area. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 permission being granted, and the development shall be retained and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Within six months of permission being granted, the applicant shall comply with the following requirements:</p> <p>(a) Opaque glass privacy screens measuring 1.8 metres in height above the floor level of the deck shall be erected on the east and west sides of the deck and permanently maintained in place.</p> <p>(b) A glass balustrade measuring 1.1 metres in height above the floor level of the deck shall be erected on the northern side of the deck.</p>

	Reason: In the interest of residential amenity and clarity.
3.	<p>Drainage arrangements for the disposal of surface water shall comply with the requirements of the planning authority for such works.</p> <p>Reason: In the interest of public health.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Eoin Kelliher
Planning Inspector

17th April 2023