



An
Bord
Pleanála

Inspector's Report ABP-314852-22

Development	Proposed split level dwelling in garden of existing dwelling.
Location	Shared private access road at Fairyhill. Monkstown, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	22/4163
Applicant(s)	Bill and Margaret Dingwell.
Type of Application	Permission.
Planning Authority Decision	Grant subject to Conditions.
Type of Appeal	Third Party.
Appellant(s)	Jean Hegarty.
Observer(s)	None.
Date of Site Inspection	25 th August 2023.
Inspector	John Bird.

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1.0 Site Location and Description

- 1.1. The site is on the east side of a steep hill overlooking the Lower Harbour. A shared private access road leads steeply up to the site from the public road, while also giving access to the Appellant's bungalow, which is directly below the proposed site. To the east of the existing onsite dwelling is a large area used for parking and turning as well as bin storage at a lower level, with a terraced garden above. The southern boundary of the parking/turning area appears as a hedge as seen from the site. A car was parked on a narrow terrace rising from the main parking area up to a level area in front of the house.
- 1.2. The existing house has a large apex picture window in a high gable.
- 1.3. Behind the hedge referred to at 1.1 above is a white boundary wall about 2.5m high, which can only be seen from the Appellant's property.
- 1.4. The ridge of the bungalow of Jean Hegarty, 3rd Party Appellant, is approximately at the level of the Applicant's existing main parking area. The boundary wall with hedge above is at the top of a steep slope which falls down to the path leading across the northwest of the Appellant's house to the Appellant's front entrance door. There is a wide terrace on the southeast side (rear garden), of the dwelling. Part of this terrace is overlooked by the Applicant's existing apex picture window referred to at 1.2 above.

2.0 Proposed Development

- 2.1. It is proposed to build a split-level dwelling on the eastern part of the garden with its parking shown in the existing lower parking area.
- 2.2. Parking for the existing house would apparently be at the higher level described at 1.1 above. No specific parking spaces or turning area for the existing house are defined on the lodged plans.
- 2.3. A diagram shows the turning arrangements for construction vehicles and an area for works and a scaffolding zone.

3.0 Planning Authority Decision

3.1. Decision: Grant Permission subject to Conditions.

On the 21st March 2022 FI was requested in relation to the size of the proposed dwelling and its relationship to a restrictive open space zoning. The FI specifically requested sections across red line boundaries. There was no request that the changes be re-advertised.

Following the Submission on 28th August 2022 of substantially revised plans (but not of the full cross-sections requested), conditions included: -

- Condition No.5 requires the omission or revision of a window which could cause overlooking.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Following the receipt of FI permission was recommended.

3.2.2. Other Technical Reports

Uisce Éireann requested FI.

Engineering requested FI. (Planner's Final Report covers engineering conditions.)

4.0 Planning History

History is listed, but does not appear to be relevant to this application.

5.0 Policy and Context

5.1. Development Plan

The relevant Plan is the Cork County Council County Development Plan 2022-2028.

The main part of the site is zoned residential, but the eastern part is zoned PW-0-06 Open Space.

5.2. **Natural Heritage Designations**

Cork Harbour SPA Code 004030.

5.3. **EIA Screening**

5.4. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- Lack of adequate parking provision leading to parking overspill onto shared private access road that could result in congestion / blocking of Appellant's entrance.
- Part of the existing dwelling has been used as a separate dwelling – no additional parking provision proposed.
- Stability of boundary wall (with hedge on the Applicant's side) at top of steep slope above the Appellant's dwelling and pedestrian access to front door. (Described at 1.3 and 1.4 above.)
- Privacy of dwelling and entrance are dependent on retention of wall and hedge above it.
- Appellant's existing terrace on the east side of her dwelling is overlooked by the Applicant's apex picture window. (Described at 1.2 and 1.4 above.)
- The substantial changes made should have been re-advertised at FI stage. This would have allowed Ms Hegarty to comment at that stage and prior to a Decision by the PA. This favoured the Applicant by default.

6.2. Applicant Response

- None

6.3. Planning Authority Response

- By letter dated 09/11/2022 the PA indicated that it had no further comment to make.

6.4. Observations

- None

6.5. Further Responses

None

7.0 Assessment

7.1. I consider that the main issues are:-

Adequacy of parking provision

Consequential parking and congestion on private shared access road

Stability white boundary/retaining wall and screening hedge above Appellant's property.

Stability of area marked for construction site and vehicle turning.

Overlooking from future windows

In relation to the stability of the boundary wall I recommend that in the event of a Permission the Applicant should submit a structural survey of the existing wall and carry out any necessary remedial work in advance of any other site preparation. A legal agreement may be required.

In the event that remedial works are required the Applicant should provide details of replacement screening and maintenance thereof.

Subject to the Conditions proposed by the Planning Authority there should be no/little overlooking of the Appellant's dwelling.

7.2. Appropriate Assessment Screening

7.3. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site, and the absence of a pathway between the application and any European site, it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

8.1. In relation to parking I consider that the Appellant was reasonable in expressing her fears about the inadequacy of parking and subsequent risk of congestion on the shared private access road.

8.2. In relation to the stability of the white boundary/retaining wall, I consider that this requires detailed survey, agreement and possible remedial work. This matter is fundamental and I consider that it requires a new Application rather than a condition.

8.3. Subject to adequate screening, I consider that there should be no significant overlooking of the north side of the Appellant's dwelling especially if the PA's Condition No.5 is applied.

8.4. In relation to the Appellant's existing eastern terrace, (rear garden), given the distance from the proposed windows, the cross-section and the Condition proposed by the Planning Authority I consider that any possible additional overlooking from the proposed dwelling would be minimal.

8.5. I therefore recommend that Permission be Refused, subject to the Reasons hereunder.

9.0 Reasons and Considerations

Reasons for Refusal

1. In the absence of the full cross-sections requested as further information or of plans showing clearly the location and assessing the stability of the boundary/retaining wall between the applicant's site and the appellant's property, it is unclear to the board whether the proposed development can be constructed without danger to both properties.
2. In the absence of the above details the board considers that it would not be safe to grant permission at this stage.
3. In the absence of clear information the board is not satisfied that sufficient turning and parking space is available to serve existing and proposed dwellings.
4. The board is not satisfied that the proposed construction area shown can be provided in the absence of adequate cross-sections of the existing bank without substantial earth-moving.

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.

John Bird
Planning Inspector

5th November 2023