



An
Bord
Pleanála

Inspector's Report

ABP-317389-23

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| Development | Constructions of extensions to existing dwelling |
| Location | 2 Emerald Hill, Knocknagore, Crosshaven, Co. Cork |
| Planning Authority | Cork County Council |
| Planning Authority Reg. Ref. | 225774 |
| Applicant(s) | Frank & Nicola Murphy |
| Type of Application | Permission |
| Planning Authority Decision | Split Decision |
| Type of Appeal | First Party |
| Appellant(s) | Frank & Nicola Murphy |
| Observer(s) | None on file |
| Date of Site Inspection | 2 nd September 2023 |
| Inspector | Sarah Moran |

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1.0 Site Location and Description

1.1. The site is a two storey terraced house within the settlement of Crosshaven, Co. Cork. The house is at the centre of a row of three Victorian terraced houses and gardens at an elevated location overlooking Cork Harbour. The site has frontages to Middle Road to the north and Upper Road to the south. Levels rise steeply from south to north within the site.

2.0 Proposed Development

2.1. The development involves the addition of a single storey extension to the front of the existing house and a single storey extension to the rear, also alterations to existing elevations and construction of a new patio area to the front of the house.

2.2. The applicant submitted additional particulars to the planning authority on 26th April 2023 in response to a Request for Further Information (RFI) including context elevations, details of the patio area and boundary treatments.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority issued a Request for Further Information (RFI) on 19th September 2022, in relation to the following issues:

- Demonstrate that the development will not negatively impact on the property to the west by way of overshadowing/reduction in light.
- Revised rear/southern elevation showing the development in context with the permitted extension to the west, ref. 22/4533.
- Revised proposal for render/plaster finish.
- Details of proposed patio including FFLs, section and boundary treatments.

3.1.2. The planning authority issued a split decision on 24th May 2023. Permission was granted for the development subject to 9 no. conditions, including condition no. 3, which stated:

Prior to the commencement of development, a revised site layout plan, plans and elevations showing the omission of the proposed patio and the omission of the proposed extension on the rear/southwest elevation shall be submitted for the written agreement of the planning authority.

Reason: *In the interests of orderly development and to clarify what has been permitted.*

Also condition no. 6:

Development described in Classes 1, 3 or 6 of Part 1 of Schedule 2 of the Planning and Development Regulations 2000-2022 as amended, shall not be carried out within the curtilage of the dwellinghouse without a prior Grant of Planning Permission.

Reason: *In the interest of residential and visual amenity.*

The decision provided the following refusal reason:

It is considered that the proposed extension on the southwest elevation by reason of the siting, scale and height would result in overshadowing of the adjoining dwelling and would therefore impact negatively on the residential amenity of same.

Furthermore, the proposed patio would result in overlooking of adjoining properties, would be visually incongruous in the streetscape and would seriously injure the visual and residential amenities of the area. It would also set a precedent for similar inappropriate developments in the vicinity. The proposed development would be contrary to Policy Objectives GI 14-9 and GI 14-10 for development in a High Value Landscape and would therefore be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Executive Planner report, 16th September 2022. Comments that the proposed extensions do not respect the character of the existing house/row of houses, also concerns about potential overshadowing of the adjoining dwelling to the west. Recommends RFI.

Second Executive Planner report, 22nd May 2023. Notes further information submitted. Recommends a split decision to grant permission for the front extension and alterations to existing elevations and refuse permission for the rear extension and patio area.

3.2.2. Other Technical Reports

Area Engineer, 16th September 2022 and 22nd May 2023. No comment.

3.3. **Prescribed Bodies**

3.3.1. No submissions on file.

3.4. **Third Party Observations**

3.4.1. None on file.

4.0 **Planning History**

4.1.1. Reg. Ref. 14/4466 and 18/6994

Permission granted for a single storey extension to the front of the house under reg. ref. 14/4466. The extension contained a dining area. Permission granted for an extension of duration of permission under 18/6694.

4.1.2. Reg. Ref. 19/6871

Permission granted for retention of a) ground and first floor extension to rear of existing dwelling and b) conversion of attic to habitable accommodation including construction of dormer windows to front and rear elevations.

4.1.3. Reg. Ref. 22/4533

Permission granted for extensions to front and rear of existing house, new site entrance, parking area and shed.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

5.1.1. Zoning

The site is located within the development boundary of Crosshaven and is zoned 'Existing Residential/Mixed Residential and other uses'. Policy objective ZU 18-9 applies:

ZU 18-9: Existing Residential/Mixed Residential and Other Uses

The scale of new residential and mixed residential developments within the Existing Residential/Mixed Residential and Other Uses within the settlement network should normally respect the pattern and grain of existing urban development in the surrounding area. Overall increased densities are encouraged within the settlement network and in particular, within high quality public transport corridors, sites adjoining Town Centres Zonings and in Special Policy Areas identified in the Development Plan unless otherwise specified, subject to compliance with appropriate design/amenity standards and protecting the residential amenity of the area. Other uses/non-residential uses should protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other uses areas will not be encouraged.

Development plan section 18.3 provides further guidance on the Existing Residential/Mixed Residential and Other Uses zoning objective:

18.3.3 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 strengthening of community facilities and local services will be facilitated subject to the design, scale, and use of the building or development being appropriate for its location.

5.1.2. Landscape Policy

The site is located within a High Value Landscape. Development plan section 14.8.9 states the following in relation to such landscapes:

Within these High Value Landscapes considerable care will be needed to successfully locate large scale developments without them becoming unduly obtrusive. Therefore, the location, siting and design of large-scale developments within these areas will need careful consideration and any such developments should generally be supported by an assessment including a visual impact assessment which would involve an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape.

The following policy objectives apply:

Objective GI 14-9: Landscape

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.*
- b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability.*
- c) Ensure that new development meets high standards of siting and design.*
- d) Protect skylines and ridgelines from development. e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments. County Development Plan*

Objective GI 14-10: Draft Landscape Strategy

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

5.2. Natural Heritage Designations

5.2.1. Having regard to the nature and scale of the proposed development in an established built-up area on serviced land, and the separation distances to European Sites, I do not consider that the proposal would be likely to significantly impact the qualifying interests of European Sites during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In conclusion, I do not consider 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.

5.3. EIA Screening

5.3.1. Having regard to the nature of the development, comprising of extensions to an existing dwelling house within the defined settlement of Crosshaven, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore be excluded by way of preliminary examination.

6.0 The Appeal

6.1. Grounds of First Party Appeal

6.1.1. The first party appeal relates to the refusal of the rear extension and patio area as per the stated refusal reason, also conditions nos. 3 and 6 of the permission, as set out above. The grounds of appeal may be summarised as follows:

- The rear extension is primarily a modification of an existing extension rather than an entire new build, to allow for the addition of a new entrance hall. The proposed extension occupies largely the same footprint as the existing structure at this location with minor alterations. The flat roof is required due to the presence of an overhead window to attic level. The highest point of the proposed roof will be 150mm below the original ridge and 600mm over the existing eaves.
- The appeal includes a shadow study comparing the existing and proposed rear extensions. It is submitted that the study demonstrates that the proposed

extension will have only a marginal overshadowing impact on the adjoining property.

- The proposed front patio area is necessary to provide a useable outdoor living space adjacent to the main kitchen/dining/living space of the house. The front of the house is not visible from the public realm due to the presence of high walls. The patio area therefore would not be incongruous in the streetscape and would not seriously injure the visual or residential amenities of the area.
- It is submitted that there is no expectation of privacy to the front of a house, as reflected in exempted development regulations. The drawings submitted as further information indicate that the existing boundary fence would remain at 1.2m over the level of the proposed patio, which ensures that views of the neighbours would remain unrestricted across the front of the site. The applicant is willing to accept a condition requiring the provision of a higher boundary screening or planting as may be considered appropriate.
- While the site is located in a Higher Value Landscape, as per development plan policy, it is submitted that the existing house is not visible from the public realm. The development therefore cannot have any adverse impact on development plan landscape objectives.
- Condition no. 6 of the permission is overly onerous and unwarranted. There is no need to de-exempt development at the subject site. The condition is superfluous as the current proposed extension, together with that previously permitted at the development site, exceeds the 40 sq.m. exempted development limit. The inclusion of Class 6 prevents the carrying out of any landscaping works within the curtilage of the house, which would prohibit the applicants' enjoyment and improvement of their property within the bounds of exempted development.

6.2. Planning Authority Response

- 6.2.1. The comment of Cork County Council, dated 3rd July 2023, notes that no new material issues have been raised and requests the Board to uphold the decision and the relevant conditions of same.

6.3. **Observations**

6.3.1. None on file.

6.4. **Further Responses**

6.4.1. None on file.

7.0 **Assessment**

7.1. I have read through the file documentation, the relevant provisions of the County Development Plan, have had regard to relevant local/regional/national policies and guidance and have carried out a site inspection. The main issues are those raised in the planning reports on file and in the grounds of appeal. I consider that the only issues that arise are in relation to potential impacts on visual and residential amenities of the area and particularly at adjacent properties. I note in this regard that the technical report on file of the Area Engineer does not raise any other issues, that the development has access to existing site services and that the proposed residential extensions are acceptable in principle on these residentially zoned lands. I therefore consider that the main issues on this appeal are as follows:

- Impacts on Residential Amenities
- Impacts on Visual Amenities
- Condition no. 6

Each of these issues is addressed in turn below.

7.2. Impacts on Residential Amenities

7.2.1. I note at the outset that there are no third party submissions or observations on file. The planning authority has refused permission for the rear extension, stating that its siting, scale and height would result in overshadowing of the adjoining dwelling. A shadow study is submitted with the grounds of appeal. The shadow study compares overshadowing from the existing and proposed rear extensions on 21st March, 21st June, 21st September and 21st December. I am satisfied with regard to same that the rear extension will result in only a marginal increase in overshadowing when compared to that as a result of the existing structure to the rear of the house. I

therefore do not consider that the rear extension would have any significant adverse impact on residential amenities by way of overshadowing.

- 7.2.2. The refusal reason states that the front patio would result in overlooking of adjoining properties. The planning report on file dated 23rd May 2023 comments that the patio area would extend 8m beyond the original rear building line and would be 1.6m above the existing ground level, due to the sloping nature of the site. I accept that this change in levels would result in increased overlooking of the adjoining front gardens. However, I note and accept the contention of the applicant/appellant that there is no reasonable expectation of privacy to the front of a dwelling, also the lack of third party submissions on file. Having inspected the site, I am satisfied that the structure will not overlook any windows to habitable rooms of adjacent residential properties. I therefore do not consider that the patio area would have any significant adverse impact on residential amenities by way of overlooking.

7.3. Impacts on Visual Amenities

- 7.3.1. The rear extension would have very limited visibility from the public realm and the refusal reason does not refer to adverse visual impacts associated with this structure. The refusal reason states that the front patio would be visually incongruous and would seriously injure the visual and residential amenities of the area, would set a precedent for inappropriate development in the vicinity and would be contrary to development plan policy objectives for High Value Landscapes as cited above.
- 7.3.2. The development is at the centre of a row of Victorian terraced houses that are designed to form an architectural composition. The front and rear elevations do not have a substantial presence in the public realm in the immediate vicinity of the site but are visible in the wider area, noting the location of the site within a High Value Landscape and at an elevated location overlooking Cork Harbour. I consider that the Victorian terrace of Emerald Hill, along with associated boundaries, etc., has significant architectural merit and historic importance within Crosshaven. However, the terrace is not designated as a Residential Conservation Area and nor do the individual houses have the status of protected structures. The overall integrity of the terrace has already been compromised by the addition of extensions to the front and rear of individual houses, including the subject site, as per the planning history

outlined above. The addition of the proposed patio area represents a minor change to an existing terrace of houses that forms part of the built up area of Crosshaven as viewed from various vantage points around Cork Harbour. I therefore consider that the patio area, including its glazed balustrade, would not have a significant adverse impact on views of the site from the wider area, notwithstanding the location within a Higher Value Landscape, such that the development would contravene relevant development plan objectives.

7.4. Condition No. 6

Condition no. 6 de-exempts development described in Classes 1, 3 or 6 of Part 1 of Schedule 2 of the Planning and Development Regulations 2000-2022 as amended, for the stated reason 'In the interest of residential and visual amenity'. The applicant/appellant submits that this condition is overly onerous and unwarranted and is superfluous as the current proposed extension, together with that previously permitted at the development site, exceeds the 40 sq.m. exempted development limit. The inclusion of Class 6 prevents the carrying out of any landscaping works within the curtilage of the house, which would prohibit the applicants' enjoyment and improvement of their property within the bounds of exempted development. The planning reports on file do not comment on this condition. I consider it reasonable that the applicant should be able to carry out exempted development at the subject site and therefore do not recommend the imposition of this condition.

7.5. Conclusion

Permission is recommended subject to revised conditions as set out below.

8.0 **Recommendation**

- 8.1. Having read the appeal and submissions on file, had due regard to the provisions of the Cork County Development Plan 2022-2028, carried out a site visit and all other matters arising. I recommend that permission is granted subject to the conditions set out below.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Cork County Development Plan 2022-2028, to the residential use on site, the nature of the proposed development and to the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and submitted to Cork County Council as further information on 27th April 2023, 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.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>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 commencement of development. This plan shall provide details of all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p> |

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| 3. | <p>Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 4. | <p>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 prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p> |
| 5. | <p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p> |
| 6. | <p>The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p> |
| 7. | <p>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 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</p> |

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| | <p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p> |
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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.

Sarah Moran
Senior Planning Inspector

3rd September 2023