



An  
Bord  
Pleanála

## Inspector's Report ABP-317959-23

<b>Development</b>	Permission for retention of elevational changes as constructed to dwelling house previously granted under planning application No. 20/5422.
<b>Location</b>	Drury's Avenue, Townparks, Middleton, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	235020
<b>Applicant(s)</b>	Fran and Angela Walsh
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Grant Conditional Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Tom and Kathrin Walsh
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> November 2023
<b>Inspector</b>	Niall Sheehan

## **1.0 Site Location and Description**

- 1.1. The appeal site is located on Drury's Avenue, Townparks, Middleton to the rear of No.15 Main Street. The 0.037ha site is a narrow backland site accessible off Drury's Avenue. Drury's Avenue provides vehicular access to the rear of properties along the Main Street.
- 1.2. The site itself is narrow at the access point off Drury's Avenue which widens moving towards the rear of Main Street.
- 1.3. The site is surrounded by a single storey extension to the rear of No.13 Main Street to the west, neighbouring garden area to the north and a commercial unit immediately adjoining to the south..
- 1.4. The site and surrounding lands are zoned 'Town Centre' and also located in the Middleton Strategic Planning Area and Architectural Conservation Area
- 1.5. The appeal site comprises of a one and a half storey dwellinghouse (approved as part of parent consent 20/5422) for which comprises of gym, storage space, utility and WC to ground floor (northern side); kitchen, dining area, sitting area, 2 no. ensuite bedrooms to first floor. The sitting area steps out onto a terrace over the front bay.
- 1.6. There is a right of way access through the site, through the southern part of the ground floor(underneath the first floor) to the rear of No.16 Main Street.
- 1.7. There are 3 no. high level windows to the ground floor of northern flank elevation with 4 no. dormers to first floor, 1 no. of which is blank. The blank dormer serves to provide additional head height at stair landing to first floor underneath.
- 1.8. A stone wall forms the northern site boundary with the rear garden/rear area of No.14. A laneway is located to opposite side of the garden area further north.
- 1.9. A stone wall runs along southern boundary from Drury's Avenue which meets the external wall of the adjacent commercial building to the rear of Main Street. Ground levels are relatively flat with a slight fall from east to west.

## **2.0 Development to be retained**

- 2.1. Permission is sought for retention of elevational changes as constructed to dwelling house previously granted under planning application No. 20/5422.

2.2. These elevational changes comprise of the following:

- Additional blank dormer to first floor level to facilitate additional head height at landing;
- Additional horizontally orientated high level window at ground floor level serving gym/storage area;
- Increase in height to terrace, both front guard wall and parapet walls to either side. The front guard wall would measure 4.12m with the parapets measuring 4.5m (3.8m approved as part of 20/5422).
- Change to façade of front bay by way render finish in place of natural stone/natural stone cladding;
- Change in different door types to ground floor, change in door arrangements to first floor;
- Infilling of rear of ground floor rear area to form additional storage area, utility and WC to associated ground floor section;
- Installation of 3 no. larger rooflights in place of 8 no. smaller uniform rooflights.

### 3.0 Planning Authority Decision

3.1. By order dated 09<sup>th</sup> August 2023 Cork County Council issued notification of the decision to grant permission with one condition attached which was to retain in accordance with plans and particulars lodged.

3.1.1. Further information was sought on the 10<sup>th</sup> of July 2023 for submission of drawings to accurately reflect the as-built situation and clarify development to be retained with particular reference to the height of front section of the dwellinghouse.

3.1.2. It is noted as part of the Planner's Report (following receipt of further information) that development contributions have been paid in full.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Reference: 235020;

### 3.2.2. Other Technical Reports

None

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland – No observations to make

### 3.4. Third Party Observations

One third party submission from Tom and Kathrin Walsh, No.14 Main Street, Middleton. This is reflected in 'Grounds of Appeal'.

## 4.0 Planning History

Application Site

Planning Authority Reg. Ref. 20/5422: Construction a new dwelling house and all associated site works. Granted Conditional Permission (Fran and Angela Walsh).

Site to north to the rear of No.12 and No.13

Planning Authority Reg. Ref. 18/4541. Construction of 1 no. two storey detached dwelling and all associated site works. Granted Conditional Permission (Noel Howard).

Enforcement

EF 22/079

Current enforcement investigation ongoing regarding non-compliance/ non conformity with the terms and conditions of Planning Register Reference 20/5422 as follows:

- Additional window on ground flank (north) elevation;
- Additional dormer to roofscape on flank (north) elevation;
- Additional window to gable end (west elevation);
- Terrace guard wall to front (east) elevation constructed in excess of permitted height.

## **5.0 Policy Context**

### **5.1. National Guidance**

Sustainable Residential Development in Urban Areas (2008) Provide general guidance in relation to densities, open space and proper development of residential areas.

Section 7.4 Privacy and Security: Privacy is an important element of residential amenity, and contributes towards the sense of security felt by people in their homes. At the rear of dwellings, there should be adequate separation (traditionally about 22m between 2- storey dwellings) between opposing first floor windows. However, such rules should be applied flexibly: the careful positioning and detailed design of opposing windows can prevent overlooking even with shorter back-to-back distances. Windows serving hall and landings do not require the same degree of privacy as, say, balconies and living rooms.

### **5.2. Development Plan**

The Cork County Development Plan 2022-2028 refers:

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Objectives HE 16-18: Architectural Conservation Areas Conserve and enhance the special character of the Architectural Conservation Areas included in this Plan.

Section 6.3 Architectural Heritage

(c) Ensure new development within or adjacent to an ACA respects the established character of the area and contributes positively in terms of design, scale, setting and material finishes to the ACA

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Town Centre Core area. This is the primary and preferred location for any new retail development in Middleton.

(c) Encourage greater use of backland areas and promote the development of brownfield sites within the town centre area where new development can positively contribute to the commercial vitality of the town centre.

(e) Continue to enhance the streetscape and heritage assets of the town centre and continue with environmental improvements.

(f) Encourage a sustainable mix of land uses in the core retail/town centre area.

### **5.3. Natural Heritage Designations**

The appeal site is located approximately 550m northeast of Cork Harbour Special Protection Area (SPA) (Site Code: 004030) and the Great Island Special Area of Conservation (SAC) and proposed Natural Heritage Area (pNHA) (Site Code for both SAC and pNHA: 001058).

### **5.4. EIA Screening**

The extension to be retained is not a class of development as prescribed in Schedule 5 of the Planning and Development Regulations 2001 (as amended and consolidated) therefore preliminary screening or EIA Determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Tom and Kathrin Walsh, No.14 Main Street, Middleton, Co. Cork

- Site notice for the parent planning application 20/5422 (on which retention based) erected during Covid Lockdown and provided no opportunity to see this site notice;
- The site is situated to the rear of No.15 Main Street. Site notice ought to have been affixed to No.15 Main Street as part of both parent and retention applications;
- Due to material change, opinion from Architectural Conservation Officer (ACO) should have been sought as part of this application;

- Planner's Report for 20/5422 contradicts the findings of ACO who stated all works to be carried out in accordance with plans and particulars submitted to protect the character of the Architectural Conservation Area;
- Despite concerns raised by the ACO, original parent development permitted and subsequent notification to grant retention aspects exacerbates concerns;
- Invasion of privacy from additional ground floor window looking into rear garden;
- Additional first floor dormer window could facilitate a window in the future;
- Any such opening would increase dormer windows looking into our garden from 3 no. to 4 no.;
- Factually incorrect statements provided by first party's agent in respect of third party appellant's property;
  - Garden to the north is not overgrown or lying in dereliction;
  - Additional ground floor window overlooks and impacts the privacy of this area which is the sole outdoor amenity afforded to the residents.

## 7.0 **Assessment**

7.1. Having reviewed the grounds of appeal I consider that it is appropriate to address the appeal under the following broad headings:

- Clarifications;
- Visual Amenity;
- Residential Amenity.

### **Clarification**

7.2. With regard to comments made in the appeal statement regarding the placement of site notices and determination of parent planning application 20/5422, this was granted by Cork County Council on the 02/12/2020 and was not subject to appeal. I would therefore consider that it is not possible to revisit particular application as part of this

appeal. For the purposes of clarity the planning appeal relates to planning application 23/5020 and not any other application prior.

- 7.3. From my own site visit, there did not appear to be access to the site from Main Street. Access appears to be gained from Drury's Lane exclusively. From a study of planning application documentation No.15 Main Street accessed off Main Street appears is not in the red line site boundary and may be under different ownership.
- 7.4. As detailed below, the visual amenity and residential amenity impacts of the proposed development are being assessed as part of the appeal. From reading of the Planning Authority's Planner's Reports dated 10/07/2013 and 08/08/2023 respectively, it appears that the Architectural Conservation Officer was consulted but did not comment on the planning application.

### **Visual Amenity**

- 7.5. The height increase to the front bay ( 4.12m to front guard wall, 4.5m to flank parapets from 3.8m to all sides) and the render finish (from stone cladding) do not detract from the appearance of the dwellinghouse (from that approved as part of 20/5422) for which integrates adequately with its position in the backlands and the surrounding pattern of development.
- 7.6. The door opening onto the said terrace has changed from an outward opening door with panels to either side to a two pane sliding door which does not impact upon the appearance of the front elevation.
- 7.7. The blank dormer provided to the northern elevation is of similar dimensions, finish and in sequence with other dormer windows to same elevation/roofscape, hence is considered acceptable in design terms. Furthermore, as discussed in 'Residential Amenity' due to the absence of a window, this dormer will not provide any actual or indeed any perception of overlooking.
- 7.8. On assessment of the visual impact of the installation of 3 no. larger rooflights to the southern roofplane (southern flank elevation) in lieu of 6 no. smaller windows, they will



not be significantly visible from anywhere due to the presence of a large two-storey commercial building at No.17 immediately south of the site, hence the difference in visual appearance will not be significant and is acceptable.

- 7.9. The western rear elevation has been constructed differently to grant of planning permission 20/5422 whereby an area subject to a 4.4m deep unenclosed void has been infilled ,and, 2 no. additional window openings have been formed which include a high level window to ground floor (serving utility to northern side), and, an obscure glazed to first floor (southern side serving bathroom). These alterations as performed are considered to be acceptable in design terms.

### **Residential Amenity**

- 7.10. The increase in height to front bay serving the roof terrace from 3.8m to 4.12m high at the guard wall and 4.5m high to either flank (parapets) would not significantly increase overlooking of neighbouring properties nor would it increase the perception of overbearing upon the neighbouring property to the north. The increase in height to both parapets would infact provide higher flank walls for which would better mitigate against overlooking to the neighbouring property to the north.
- 7.11. I further consider that views of the neighbouring rear garden to the north from will not be significantly invasive given the addition of an oblique angle of vision. Overall, I am satisfied that there will be no significant overlooking or loss of privacy to the neighbouring garden to the north resultant.
- 7.12. In addition, given the increase in height of 0.312m to the front guard wall and 0.7m to either flank parapet, I do not consider than any significant additional overshadowing or loss of light would occur to the neighbouring garden to the north either.
- 7.13. With regard to the high level horizontally orientated window to the ground floor, as outlook here would be taken from around head height level, views into neighbouring rear garden area immediately north would not be directly apparent or overly significant (from inside the subject area of the appeal property). The high level window is considered to predominantly provide light and would not offer significant outlook,

hence overlooking or loss of privacy impacts resultant would not be significant. It is noted that there is some vegetation to the mutual boundary (to the neighbouring side) which may offer some level of mitigation, however this may be seasonal/may not be permanent. It is also noted that there are 2 no. other high level horizontally orientated window to ground floor of same elevation.

- 7.14. From a study of the plans submitted, the blank dormer appears to provide additional head height for the internal stairwell. Given that it would be similar in dimensions and in sequence with the 3 no. other dormer windows to same elevation/roofplane, the blank dormer provided does not result in increased overlooking.
- 7.15. With regard to potential installation of a window at this location, I have recommended that the dormer element to northern elevation remain blank and not be provided with glazing (part of condition).
- 7.16. With regard to alterations to the western/rear elevation, given that the window to first floor serves an ensuite bathroom and comprises of opaque glazing, it is not considered to generate a loss of residential amenity to any surrounding occupiers. I have recommended for it to remain opaque glazing in perpetuity in order to permanently safeguard residential amenity for both the appeal property and any sensitive rear openings to the rear of this section of Main Street (part of condition).
- 7.17. Other alterations such as the installation of two pane sliding door to roof terrace in place of French door with fixed panels to either side, infilling of port to ground floor level to provide utility, WC and additional gym/storage space, provision of 3 no. larger rooflights to southern elevation in place of 8 no. smaller rooflights will not impact upon residential amenity of any neighbouring properties/occupiers.

### **Appropriate Assessment**

- 7.18. As regards Appropriate Assessment having regard to the nature of the development and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the development to be retained would be likely to

have a significant effect individually or in combination with any other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. Having regard to the foregoing I recommend that retention be **GRANTED** subject to conditions.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the Cork County Development Plan 2022-2028, the site location in the Middleton Town Centre Architectural Conservation Area, the planning history of the site, the scale and design of the development to be retained, the surrounding pattern of development, I consider that the development to be retained would not give rise to unacceptable impacts on visual amenity or on the character and setting of the Middleton Town Centre Architectural Conservation Area, or on the residential amenity of surrounding neighbouring properties/occupiers. The development to be retained is in keeping with the existing pattern of development, and, would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be retained in accordance with plans and particulars lodged with the Planning Authority on the 18/07/2023, save where amended by the terms and conditions herein.  <b>Reason:</b> In the interests of clarity.
2.	(a) The first floor window to the rear elevation (currently serving as ensuite bathroom) shall be retained in obscure glass/glazing in perpetuity.  (b) The dormer element on the north elevation shall remain blank and shall not be provided with glazing of any nature.  <b>Reason:</b> To prevent overlooking of adjoining residential properties.

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.



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Niall Sheehan  
Planning Inspector

14<sup>th</sup> December 2023

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	317959-23			
<b>Proposed Development Summary</b>	Permission for retention of elevational changes as constructed to dwelling house previously granted under planning application No. 20/5422.			
<b>Development Address</b>	Drury's Avenue, Middleton, Co.Cork			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X	
		<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		Class.....	EIA Mandatory EIAR required	
<b>No</b>	X		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A	Not a class of development	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....		Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: *Nhall Guerin* Date: 14<sup>th</sup> December 2023