



An
Bord
Pleanála

Inspector's Report

ABP-319070-24

Development

Permission is sought for new vehicular entrance, including new entrance gates and part demolition of existing front boundary, and all associated site works and services.

Location

10 McCurtain Villas, College Road,
Cork

Planning Authority

Cork City Council

Planning Authority Reg. Ref.

2342365

Applicant(s)

Catherine and Jim Ryan.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party

Appellant(s)

Catherine and Jim Ryan.

Observer(s)

None.

Date of Site Inspection

17th July 2024.

Inspector

Terence McLellan

1.0 Site Location and Description

- 1.1. The application site refers to the two storey, mid terrace dwelling and plot located at 10 McCurtain Villas, Cork. The front boundary of the property is marked by hedging and a pedestrian gate. The immediate surrounding area is characterised by similar two storey terraced dwellings. McCurtain Villas is a fairly narrow street with double yellow lines restricting parking on the road edge immediately outside No. 10, whereas the opposite side of the street has some on-street parking bays marked by white lines. Several of the dwellings on this section of the street have off-street car parking in their front gardens, including the dwelling directly opposite the subject property.

2.0 Proposed Development

- 2.1. Planning permission is sought for alterations to the boundary treatment to facilitate a new vehicular access and off-street parking bay, including new entrance gates.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Planning permission was refused by Cork City Council on the 24th January 2024 for the following reason:

1. Having regard to the geometric dimensions of the local road network, it is considered that the proposed development, would result in unacceptable traffic conflict and consequent traffic hazard on McCurtain Villas and would set an undesirable precedent for similar future development in the area. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The Planner's Report contains the following points of note:
- The Executive Planner's Report noted the recent permission on the opposite site at 60 McCurtain Villas, but raised concerns regarding boundary treatment,

on the basis that the proposed driveway is considered much more visually apparent due to the lack of retained planting, inadequate soft landscaping, and the provision of an entire frontage of grey aluminium railings. Additional concerns were raised regarding sight lines, and vehicular turning manoeuvres. Further information was requested to address all of these points.

- The subsequent Senior Planner's Report reiterated concerns regarding the minimal retention of soft landscaping and the lack of a middle pillar to separate the pedestrian entrance from the vehicular entrance. It is considered that the provision of a middle pillar would break up the continuous railing and be in keeping with the surrounding environment. Overall, it is considered that further amendments could be conditioned if permission was to be granted.
- Again, the report notes the presence of on-street public parking on the opposite side of McCurtain Villas, in front of No.60 where permission has been granted for a driveway. The report states that if the on-street public parking is occupied then adequate sightlines and safe turning manoeuvres would not be possible from the appeal site.
- Noting the permission at No. 60, the report concludes that if the public parking is occupied then the driveway at No.60 would not be able to be used at all and that this wouldn't present any additional risk to public safety, whereas at No. 10, attempts would be made to access/exit the driveway regardless of whether or not the on-street parking is occupied and that this would lead to a certain risk to public safety.
- The report concludes that should the on-street parking be formally removed in the future then an application for a driveway with adequate sightlines can be considered.

3.2.2. Other Technical Reports

3.2.3. Drainage – No objections.

3.2.4. Urban Roads and Street Design – Initially requested Further Information to demonstrate appropriate sightlines and ability to complete turning manoeuvres. FI was submitted and an updated report from Urban Roads and Street Design was provided. The updated report noted that on the applicant's submitted drawings, it states that on-street parking is to be removed directly opposite the proposed development site as

part of the grant of planning permission for No. 60 McCurtain Villas (Ref.23/41870). However, as of 24/01/2024 this on-street car parking bay is in-situ and therefore, it appears a driver exiting from the proposed development site would be unable to complete the turning manoeuvre due to the presence of the existing on-street car parking bay. Refusal of permission recommended.

3.3. Prescribed Bodies

- 3.3.1. Cork Airport were consulted, confirming no comment but recommending consultation with IAA and AirNav Ireland. In my opinion, further consultation is unnecessary given the nature of the proposed development.

3.4. Third Party Observations

- 3.4.1. None.

4.0 Planning History

Subject Site

- 4.1.1. There is no planning history of relevance at the subject site.

Adjacent Site – 60 McCurtain Villas (directly opposite the appeal site)

- 4.1.2. **Planning Authority Reference: 2341870:** Permission was granted by Cork City Council in July 2023 for a new vehicular entrance, including new entrance gates, part demolition of existing front boundary, and all associated site works and services. This development has now largely been completed.

5.0 Policy Context

5.1. Cork City Development Plan 2022-2028

- 5.1.1. The site is zoned objective ZO 01 – Sustainable Residential Neighbourhoods, the stated objective of which is ‘To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.’

5.1.2. Section 11.145: Residential Entrances and Front Gardens - The cumulative effect of the removal of front garden walls and railings damages the character and appearance of suburban streets and roads. Consequently, proposals for off-street parking need to be balanced against loss of amenity. The removal of front garden walls and railings will not generally be permitted where they have a negative impact on the character of streetscapes (e.g. in Architectural Conservation Areas and other areas of architectural and historic character) or on the building itself (e.g. a Protected Structure). Consideration will be given to the effect of parking on traffic flows, pedestrian and cyclist safety, and traffic generation. Where permitted, “drive-ins” should:

1. Not have outward opening gates;
2. In general, have a vehicle entrance not wider than 3 metres, or where context and pattern of development in the area allows not wider than 50 per cent of the width of the front boundary;
3. Have an area of hard-standing equivalent parking space of (2.5 m x 5m) with the balance of the space suitably landscaped;
4. Hard surfaces must be permeable;
5. Inward-opening gates should be provided; Where space is restricted, the gates could slide behind a wall. Gates should not open outwards over public footpath or roadway;
6. Other walls, gates, railing to be made good.

5.2. **Natural Heritage Designations**

5.2.1. None of relevance.

5.3. **EIA Screening**

5.3.1. The development does not constitute a class of development for EIA purposes. See pre-screening form at Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been submitted by OSL Butler Consulting Engineers of Unit 38, Eastgate Drive, Little Island, Cork, for and on behalf of the Applicants Jim and Cathrine Ryan of 10 McCurtain Villas, Cork City. The grounds of appeal can be summarised as follows:

- The Council granted permission for a similar development at 60 McCurtain Villas opposite the subject site. There is a parking bay on street at the front of 60 McCurtain Villas whereas the subject site has double yellow lines. The Council's decision to refuse permission is therefore inconsistent.
- The white lines demarcating on street parking are to be removed by Cork City Council as a result of the permission granted at 60 McCurtain Villas, as drivers are not allowed to block an officially approved entrance. The white lines have not yet been removed due to process and delay.
- There would be no traffic conflict as no parking is permitted in front of 10 McCurtain Villas due to the double yellow lines and the proposal would not require the removal of any parking bays, unlike the permitted development at No. 60 where on street parking needs to be removed as a result of the permission granted.
- As it is an offence to park in front of an officially approved driveway, Cork City Council have no choice but to the remove the on-street parking bay.
- The Senior Planner is agreeable to the proposed development once the parking bay is removed and appropriate sightlines can be demonstrated. DMURS compliant sightlines can be provided.
- There are a number of examples of similar precedent development on McCurtain Villas.
- The double yellow lines force the Applicant to park further away from their home.
- The proposal does not reduce on-street car parking capacity.

- The geometric dimensions of the local road network have not changed in 100 years.
- Six on street spaces have been removed over the years due to driveway construction and 34 of the 76 homes in McCurtain Villas have access to driveway parking. This means parking further away from home due to the lack of on-street parking.
- It is important to be able to park the car on the property due to advanced age and mobility issues.

6.2. Planning Authority Response

6.2.1. No response on file.

6.3. Observations

6.3.1. None.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issue in this appeal relates to the principle of the vehicular access in terms of access and sightlines as well as potential impacts on public and traffic safety.

7.2. The subject property side of McCurtain Villas is restricted by double yellow lines. Some on-street car parking bays are marked by white lines on the opposite side of the street. Many of the dwellings along this section of McCurtain Villas have off-street car parking and where there is off street car parking, no marked on-street parking bays are provided in the immediate vicinity, in order to ensure continual access.

- 7.3. In my opinion, a key issue in the determination of this case relates to the planning approval for the vehicular entrance and off-street car parking space at 60 McCurtain Villas, which is directly opposite the subject property and is now largely complete and in use. The marked on-street parking bay immediately outside 60 McCurtain Villas and across the road from the appeal site has not yet been removed. The Planning Authority have taken the position that until such time as the white lines/parking bays are formally removed, the proposed vehicular access would be unacceptable as a driver accessing/egressing would be unable to complete the turning manoeuvre, due to the presence of the adjacent on-street car parking bay outside 60 McCurtain Villas. The Planning Authority accept that once the parking bay is removed, adequate sightlines and turning space would be available. Assuming that the carriageway of McCurtain Villas is in the charge of the Council, the removal of the white lines/parking bays is within the Council's gift.
- 7.4. In any event, Section 36 (2) (g) of the Road Traffic (Traffic and Parking) Regulations 1997 clearly state that a vehicle shall not be parked in any place, position or manner that will result in the vehicle obstructing an entrance or an exit for vehicles to or from a premises, save with the consent of the occupier of such premises. It is therefore inevitable that the parking bays will need to be removed on foot of the earlier permission granted by Cork City Council at No. 60 McCurtain Villas, as vehicles parking in these bays would block the driveway of No. 60, and the Applicant certainly indicates this to be the case.
- 7.5. The Planning Authority have accepted that the proposed development would largely be acceptable once the parking bays are removed, and I see no reason to withhold permission on the basis of the delay in removing the parking bays. Other issues raised by the Planning Authority regarding the boundary and surface treatment were largely resolved by the Further Information submission and I am of the view that this information was acceptable and that no further amendments are required by condition.

8.0 AA Screening

- 8.1.1. I have considered the proposed vehicular entrance in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is

located approximately 3.5km from the Cork Harbour SPA which is the nearest European Site.

8.1.2. The proposed development comprises the creation of a domestic vehicular access, as set out in Section 2.0 of the report. No nature conservation concerns were raised in the planning appeal.

8.1.3. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The small scale domestic nature of the proposed development and the existing wastewater connections.
- The distance from the nearest European Sites and the lack of any direct hydrological connection.
- The screening determination of the Planning Authority, which concluded 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.

8.1.4. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that the Board overturn the decision of Cork City Council and grant planning permission for the proposed development subject to the conditions set out in Section 11 below.

10.0 Reasons and Considerations

10.1.1. Having regard to the zoning of the site, the pattern of development in the immediate area, including the number, provision and design of vehicular accesses, and the provisions of the Cork City Development Plan 2022-2028, it is considered that, subject

to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenity of the area or of property in the vicinity, would be acceptable in terms of traffic and pedestrian safety, and would not set an undesirable precedent for similar development. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 19th day of December 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.

Reason: In the interests of clarity.

2. The vehicular entrance shall be a maximum of 3 metres wide, gates shall open inwards and not out into the public domain, and hard surfaces shall be permeable.

Reason: In the interest of traffic safety and the proper planning and development of the area.

3. Drainage arrangements, for the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health.

4. The site development works, and construction works shall be carried out in such a manner as to ensure that the adjoining street is kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining road, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadway is kept in a clean and safe condition during construction works in the interests of orderly development.

5. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 adjoining property in the vicinity.

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.

Terence McLellan
Senior Planning Inspector

31st July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319070			
Proposed Development Summary	Permission is sought for new vehicular entrance, including new entrance gates and part demolition of existing front boundary, and all associated site works and services.			
Development Address	10 McCurtain Villas, College Road, Cork.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		X	X	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
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]?				
		Threshold	Comment (if relevant)	Conclusion
No	X	N/A		No EIAR or Preliminary Examination required
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____