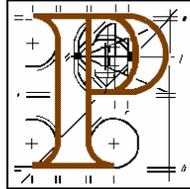


An Bord Pleanála



Inspector's Report

Development: Retention of site development works for approved serviced dwelling house (reg. ref. 20100688 and 20090744) at Milehouse, Marshalstown, Co. Wexford.

Planning Application

Planning Authority: Wexford County Council
Planning Authority Reg. Ref.: 2011/0124
Applicant: John Connors
Type of Application: Retention Permission
Planning Authority Decision: Grant

Planning Appeal

Appellant(s): Pat and Bernie Whelan

Observers: None

Type of Appeal: Third Party

Date of Site Inspection: 19/01/12

Inspector: Gillian Kane

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site is comprises a built but incomplete single storey with attic accommodation dwelling house to the rear of an existing single storey dwelling, on the north-eastern side of the R702, approx. 3km from Enniscorthy. The wider area is rural with a degree of ribbon development leading from the outskirts of the town.
- 1.2 The overall site is rectangular, with a frontage on to the regional road of approx.. 20m and a length of over 100m. The wider area slopes steeply from south to north. The development of the subject dwelling to be retained involved the excavation of the site by approx. 3m at the deepest point. A retaining wall of 1.5 to 3m in height has been constructed along the north-western boundary of the site and a further retaining wall has been constructed to the rear (north-east) of the site to create an area of private open space. No landscaping has been undertaken and the demolition of the extension of the building to be retained has not taken place.
- 1.3 The lands to the north-west (side) and north-east (rear) of the site are in agricultural use, as are the lands to the south (opposite the site). There are 3 dwellings situated to the east of the site (including that of the appellant).

2.0 PROPOSED DEVELOPMENT

Application Lodged 14/02/11

- 2.0.1 Planning permission was sought for the retention of site development works for a dwelling approved under reg. ref.s 20100668 and 0090744. The gross floor space of the dwelling to be retained is 211.1sq.m. on a site of 0.298ha.
- 2.0.2 A cover letter submitted with the application states that the development on site accords with the approved layout. It is stated that the topography of the site required excavation and the construction of a retaining wall.
- 2.0.4 One objection to the proposed development was submitted to the Council.

2.1 Reports on File following submission of application

- 2.1.1 **Planning Report:** The planner states that the dwelling on site has not been constructed in accordance with the approved plans, levels of the site have been

significantly altered and details relating to the retaining wall and proposed fencing have not been submitted. Due to the change in site levels, the applicant should be requested to submit a surface water attenuation scheme.

2.2 Further Information

2.2.1 On 04/04/11 the applicant was requested to submit:

- Revised development description and revised public notices,
- Plans of the dwelling as constructed, sections and elevations of the retaining wall, cross section of the entire site, landscaping and boundary proposals and
- Details of proposed surface water attenuation

2.2.2 On 30/09/11 the applicant submitted further information as requested.

2.2.3 **Planning Report:** The planner states that all outstanding information has been submitted and is considered acceptable. Recommendation to grant permission.

3.0 PLANNING AUTHORITY DECISION

By order dated 28/10/11 the Council issued a notification of decision to GRANT permission subject to 12 no. conditions. Conditions of note include:

1. Building to the south-west to be retained and used as gym and games room only,
2. Section 47 occupancy agreement

4.0 PLANNING HISTORY

4.1 **2010/0068:** Planning permission was granted for the erection of a replacement serviced dwelling and the conversion of the existing dwelling to a domestic gym and games room.

4.2 **2009/0744:** Planning permission was granted for a single replacement dwelling connecting to existing mains and the conversion of the existing dwelling on site into a gym and games room

4.3 **PL26.230741** (2008/1574): Planning permission was refused for the erection of a dwellinghouse on the grounds that the proposed development would endanger public safety

5.0 NATIONAL POLICY

5.1 Sustainable Rural Housing Guidelines for Planning Authorities

5.1.1 The guidelines refer to criteria for managing rural housing requirements whilst achieving sustainable development. Among the policy aims identified for sustainable rural housing are;

- Ensuring that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.
- Managing pressure for overspill development from urban areas in the rural areas closest to the main cities and towns such as the gateways, hubs and other large towns.
- The planning authority should establish if the proposal is intended to meet a genuine rural housing need.

5.1.2 According to Map 1 Indicative Outline of NSS Rural Area Types the subject site is located in an area which is classified as being a **Stronger Rural Area**.

5.1.3 In relation to such areas, the Guidelines suggest that the extensive village and small town structure has much potential in accommodating additional housing development catering for persons working in larger cities and towns but desiring a rural lifestyle.

5.1.4 Appendix 3 of the Guidelines state the development plan objectives and issues for rural areas. In relation to stronger rural areas it states that the key development plan objective in relation to these types of areas should be to consolidate and sustain the stability of the population and in particular to strike the appropriate balance between development activity in smaller towns and villages and wider rural areas. The development plan should aim to strike a reasonable balance between:

- (1) Accommodating proposals for individual houses in rural areas subject to good practice in relation to matters such as siting and design as outlined elsewhere in these guidelines,
- (2) Actively stimulating and facilitating new housing development in smaller towns and villages to provide for balanced urban and rural choices in the new housing market and
- (3) Carefully monitoring development trends to avoid areas becoming overdeveloped in terms of leading, for example, to extensive ribbon development. The overall approach in this regard in such areas is to ensure these areas maintain a stable population base in both urban and rural parts.

5.1.5 In addition, policies should include references to:

- Selecting particular small villages and towns to pilot combined local authority and private investment to stimulate attractive high quality individual housing or private site developments to attract population growth and further investment,
- The need to monitor population and development trends in rural areas in order to identify areas at risk from population decline and trigger policies aimed at encouraging appropriate levels of new development in rural areas and selected villages and smaller towns, and
- The need to monitor population and development trends in rural areas in order to identify pockets where very significant individual housing activity is occurring leading to ribbon development, wastewater disposal difficulties, traffic or other serious planning issues.

5.1.6 The Guidelines require that new houses in rural areas are sited and designed to integrate well with their physical surroundings and generally be compatible with:

- the protection of water quality in the arrangement made for on site wastewater disposal facilities
- the provision of a safe means of access in relation to road and public safety and
- the conservation of sensitive areas such as natural habitats, the environs of protected structures and other aspects of heritage.

6.0 LOCAL POLICY

6.1 Wexford County Council Development Plan 2007 - 2013

6.1.1 The subject site is located in an unzoned rural area of Wexford County. The nearest identified settlement is Enniscorthy, which is classified as a 'secondary growth area' at level 2 of a 5-tier hierarchy. Maps 2 and 3 identify subject site as being within a 'Stronger Rural Area' using the definitions of the National Spatial Strategy

6.1.2 According to the development plan the Council's aims for rural housing are to:

- Meet the needs of rural people and their families who have strong ties to a particular locality and of those who need to reside in rural areas for employment or other essential economic and social reasons
- Control the amount of sporadic speculative development, which should more appropriately be located on serviced lands in towns and villages.
- Monitor the effectiveness of the Rural Housing Strategy so as to avoid excessive levels of, or inappropriately located development.

6.1.3 **Section 2.4.3** of the development plan states that within stronger rural areas the criteria for facilitating development will be to accommodate individual houses in rural areas for the applicants own use where the applicant has been resident in the County for not less than ten years.

6.1.4 **Policy RSS5:** The Council shall attach an occupancy condition to all individual one off rural dwellings on un-zoned land in areas defined as Under Strong Urban Pressure and Stronger Rural Areas, pursuant to Section 47 of the Planning and Development Act 2000, restricting the use of the dwelling to the applicant and their immediate family, as a place of permanent residence. The period of occupancy will be limited to a period of five years from the date of first occupation.

6.1.4 **Section 6.3.2** deals with wastewater treatment systems, with **Policy WT 1.9** providing for the strict control of the siting of septic tanks and proprietary effluent treatment systems.

6.1.6 **Section 10.07** outlines the Council's Rural Residential Development Guidelines. **Section 10.07.01** is a Rural Housing Design Code, section **10.07.2** covers design and siting guidelines for rural housing. The main points include:

- A site should be capable of accommodating a dwelling that blends into the landscape and is not visually prominent
- A safe entrance should be provided to the site
- The site for a dwelling with a floor area of 169sq.m. should be 0.2 hectares
- A site analysis/study should be prepared
- Assessment should not be too prescriptive, with focus on the broad issues of scale, density, height, massing, landscaping, access and road frontage and the visual relationship likely to be established with other properties in the vicinity.
- A single storey form should be used on more exposed and elevated sites
- External building materials should blend with landscape
- A building line of not less than 23m applies to dwelling fronting Class 1 Regional Roads (Class 1 clarified in s. 10.11.3 and does not include R702)
- Adequate sitelines in both directions required
- Linear development occurs where 5 or more dwellings occur on one side of a road within 250m

6.1.7 **Section 10.05.12** of the development plan deals with Backland Development. It states that development of backlands, including the construction of extra dwellings in back gardens may result in inappropriate and disorderly development and can have an adverse effect on the residential amenity of adjoining properties. This may also result in the overloading of infrastructure and in missed opportunities for integrated renewal. Backland development will be considered if:

- There is no loss of privacy to adjoining dwellings.
- The access arrangements would not significantly increase noise and disturbance to existing dwellings.
- There is adequate off street parking.
- There is adequate provision of private amenity space.
- The scale and design of the dwelling is compatible with the character of the buildings in the surrounding area.
- There are no issues of overshadowing.
- Existing trees or natural features are retained.

6.2 **Development Contributions**

The appeal site is not located within an area identified by the development plan for the application of supplementary development contributions.

7.0 **GROUNDS OF APPEAL**

7.1 It is submitted that the description of the proposed development as published in the public notices is significantly different to the development carried out on site.

7.2 It is submitted that the existing dwelling, due to its proximity to the boundaries of the site negatively impinges on the residential amenity of the appellant and is out of character with the rural area due to the level of excavation.

7.3 It is submitted that insufficient information was submitted to enable a full assessment of the application. It is submitted that the proposed development does not comply with article 23 of the planning regulations as contiguous elevations were not submitted. The Bord id requested to require a re-advertisement of the proposed development detailing all works to be retained on site and the submission of contiguous elevations. It is submitted that these drawings are necessary substantiate the actual position of the house on site.

7.4 It is submitted that an application for retention should be refused on the grounds of the serious injury to the rural character of the area and the negative visual impact when viewed from the Appellants property. It is submitted that the proposed development is contrary to section 10.07.1 of the Wexford County Development Plan as the dwelling does not blend into the landscape and is out of character with the rural landscape. It is submitted that the proposed development would set a negative precedent.

7.5 It is submitted that the proximity of the subject dwelling to the appellants property (2m) has an overbearing impact on the appellants property and is injurious to their residential amenity. It is submitted that a roof plane of over 8m in width is only suitable in an urban area. It is submitted that the dwelling to be retained is 4m in

front of the building line of the appellants property and this contributes to the overbearing impact.

7.6 It is submitted that the first floor dormer windows of the subject dwelling overlook the appellants private open space. It is stated that the current boundary of hedging is to be removed and will therefore incur overlooking from the western side dormer. The Bord is requested to replace the dormers with rooflights if permission is to be granted.

7.7 It is submitted that the proposed boundary treatment along the eastern boundary is inadequate and unsafe. It is submitted that soil erosion has already occurred and that future backfilling will not protect the hedgerow. The Bord is requested to increase the height of the retaining wall and request a 1.8m high fence if permission is to be granted.

7.8 It is submitted that the retaining wall along the western boundary does not meet building regulations. As constructed drawings should be requested.

7.9 The Bord is requested to require detailed landscaping proposals.

7.10 The Bord is requested to prohibit the use of the parking area for the storage of machinery or commercial vehicles, to request a section 47 agreement to prevent further dwellings and to prohibit the erection of a domestic shed or garage.

7.11 The appeal is accompanied by a number of photographs.

8.0 RESPONSES

8.1 Planning Authority Responses

8.1.1 Planning Authority are satisfied that the information submitted was sufficient to make a decision and that the development complies with the development plan policies.

8.1.2 The Planning Authority are satisfied that the existing and proposed boundary treatment and landscaping was sufficient to make a decision.

8.1.3 The Appellants request for restrictive use conditions was noted.

8.2 Response of the First Party

8.2.1 Planning permission was granted under 2009/0744 and 2010/0668. Following enforcement, permission for retention of works was sought and is the subject of the current appeal.

8.2.2 It is submitted that the house is sited as approved under 2010/0668 (drawings submitted in support) and that issues such as siting, proximity to boundaries, extent of cutting, scale of house etc. were properly considered during the previous decision processes.

8.2.3 It is stated that in both applications, the distance between the proposed and the existing house to be retained is 21m and this was confirmed by a Council official.

8.2.4 It is stated that a site section drawing and a landscaping plan were submitted as part of the further information process. The landscaping plan shows a 1.8m high timber fence at the applicant's side of the common boundary.

8.2.5 It is submitted that the rear dormer windows do not overlook the appellants property and that dormer windows are common in adjoining dwellings.

9.0 OBSERVATIONS

9.1 None on file.

10.0 ASSESSMENT

10.0.1 On reading of all documentation submitted with the appeal, I consider the issues to be:

- Principle of the Appeal

- Impact on Residential and Visual Amenity

10.1 Principle of the Appeal

10.1.1 Permission is sought for the retention of a dwelling as constructed, from that permitted under 2010/0668. I have examined some of the documentation submitted with the previous application and have inspected the dwelling and site. I am satisfied that, in terms of siting and footprint, the dwelling to be retained differs from that permitted only slightly. The most significant difference is the extension of the eastern half of the ground floor footprint to the north (rear of the dwelling accommodating walk in wardrobe and en-suite of the master bedroom at ground level). I am satisfied that the differences are not material, nor are they significant. It is considered that the dwelling as constructed and to be retained is largely in keeping with that permitted.

10.1.1 It is considered that the principle of the proposed development has been established in the previous planning applications and need not be re-examined in the subject application.

10.2. Impact on Residential and Visual Amenity

10.2.1 I do not agree that the rear dormers to the rear of the subject dwelling overlook the adjoining dwelling. I am satisfied that the insertion of dormer windows where roof windows were permitted is not a material or a significant change. I am satisfied that the retention of the two dormer windows will not impact on the residential amenity of the dwelling to the east.

10.3.2. The dwelling to be retained is not visible from the public road. The roof plane of the dwelling is visible from the appellants property but it's largely screened by the high hedging in existence on this boundary. I note the Appellants intention to remove said hedging, as is their right. It is considered however, that the proposed 1.8m high timber fence proposed along the shared boundary is sufficient to screen the proposed dwelling.

10.3.3 I do not agree that the extent of excavation necessitated by the development creates a negative visual impact. It is considered that the construction of a dwelling

on top of the steeply sloping site would be imprudent and that the excavation of a site to accommodate a dwelling is a common approach.

11.0 CONCLUSION AND RECOMMENDATION

11.1 I have read the submissions on file, visited the site, and have had due regard to the provisions of the Wexford County Development Plan, the planning history on the site and all other matters arising. It is considered that development to be retained works does not detract from the visual amenity of the subject site, the adjoining properties or the wider area. It is considered that the proposed development to be retained and completed will not cause significant injury to the residential amenity of the adjoining properties. I am satisfied that the proposed development is in accordance with the County Development Plan and the proper planning and sustainable development of the area. I recommend permission be GRANTED subject to the following conditions:

12.0 REASONS AND CONSIDERATIONS

Having regard to the zoning objectives for the area and pattern of development in area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would be acceptable in terms of traffic safety, public health and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

1. The development shall be retained and completed 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 points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

Gillian Kane

Planning Inspector

31/01/12