



An Bord Pleanála

Development: Permission for extensions and alterations to a house at Wheatfield, Ardee, Co. Louth.

Planning Application

Planning Authority: Louth County Council

Planning Authority Reg. Ref: 13/480

Applicant: John & Georgina McGeoy

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant(s): John & Georgina McGoey

Type of Appeal: 1st-v-Refusal

Site Inspection: 03rd July 2014

Inspector Colin McBride

1. SITE DESCRIPTION

- 1.1 The appeal site, which has a stated area of 0.5108 hectares, is located approximately 3km to the south east of Ardee and approximately 1km east of the N2 National Primary Route. The site is occupied by an existing two-storey dwelling with a detached garage. The lands immediately adjacent the site are agricultural lands.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for the demolition of an existing sunroom, alterations to the interior and extensions to the existing two-story detached house comprising of a two-storey extension to the rear (west) and side (south gable), a new single-storey bay window extension on the north gable and a new glazed entrance porch with canopy to the front increasing the floor area by 136.5sqm, and permission for a new south facing covered terrace and the construction of a separate single-storey car port (54sqm) to the rear of the house and for realignment of the existing driveway, all landscaping works.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

3.1

- a) *Planning Report (17/12/13): Further information required including demonstration that existing wastewater treatment system is of an adequate standard, revised proposals to comply with Development Plan policy SS44, SS35 and details regarding proposed landscaping.*
- b) *Planning Report (14/04/14): The existing wastewater treatment system was regarded to be of sufficient standard. The cumulative floor area of the revised car port and existing garage would exceed the permitted level for garages and outbuildings under Policy SS44. It is noted in relation to policy SS35 that the stipulation in relation to floor area ratio is applicable where there are proposals to extend existing dwellings in excess of 200sqm. Having regard to site area and the floor area of extension, the proposal would materially contravene Development Plan policy.*

4. DECISION OF THE PLANNING AUTHORITY

4.1 Permission refused based on two reasons...

1. It is policy SS 44 of the Louth County Development Plan 2009-2015 to limit the size and scale of detached domestic garages and other domestic outbuildings to 100 square metres, taken cumulatively in order to reduce the combined visual impact of the house and garage and/or and other

domestic outbuildings on the character of the landscape and to protect the amenities of adjoining residential property.

Taken cumulatively, the proposed car port and existing garage on site would measure 150sqm. Hence the proposed development would materially contravene this policy of the Development Plan and would thus be contrary to the proper and sustainable planning of the area.

2. It is policy SS35 of the Louth County Development Plan 2009-2015 that in cases where the proposed dwelling is in excess of 200sqm, the site size shall be correspondingly increased incrementally by a ratio of 20sqm for each 1 sqm additional floor area of the proposed dwelling.

The site of this development measures 0.49 hectares and the proposed development would extend the floor area of this dwelling 391sqm. Having regard to site area/floor area ratio stated above, the proposed development would thus materially contravene this policy of the Development Plan and would thus be contrary to the proper planning and sustainable planning of the area.

5. PLANNING HISTORY

5.1 031337: Permission granted for a dwelling.

5.2 98804: Permission granted for a dwelling.

6. PLANNING POLICY

6.1 The relevant plan is the Louth County Council Development Plan 2009-2015.

6.2 Policy in regards to site size is set out under Section 4.6.9, Extensions to dwellings under Section 4.6.12 and Garages under Section 4.6.14 (attached).

7. GROUNDS OF APPEAL

7.1 A first party appeal has been lodged by John Fleming Architects on behalf of John & Georgina McGoey. The grounds of appeal are as follows...

- In regards to reason two and the application of Policy SS35 it is noted that under Variation No. 4 of the Development Plan that SS35 specifically relates to 'new dwellings'. It is noted that the proposal is for extension of an existing dwelling and that Policy SS 40 applies. It is noted that use of

- this policy for refusal of the development is incorrect with it noted that the planning assessment and grounds for refusal include nothing in relation to the quality of the development in regards to visual amenity or design.
- In regards to reason no. 1 it is noted that the applicant provided sufficient grounds in their response to further information for the car port not to be assessed as a building in that it does not feature enclosed space and should not be included in the 100sqm limitation under Policy SS44 It is noted that the structure in question is single-storey and is located to the rear of the house.
 - The appellants have enclosed a revised drawings with the carport removed however the appellants wish that this element be retained and approved.

8. RESPONSES

8.1 Response by Louth County Council:

- The Planning Authority refers to Development Plan policy under Section 4.6.14 and specifically Policy SS44. It is noted that the proposed car port is considered to be a building and that the cumulative floor area of such taken in conjunction with the existing garage would exceed the limits permitted under Policy SS44.
- The PA disagree with the appellants view that Policy SS 35 does not apply. The policy as varied is noted and it is noted that the development relates to a 'one-off' house in the countryside with an existing floor area of 272sqm to be extended to 391sqm. It is considered appropriate to assess this proposal in respect of policy SS 35.

9. ASSESSMENT

- 9.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Design/visual amenity
Development Plan policy

9.2 **Design/visual amenity:**

- 9.2.1 The proposal entails the provision a two-storey extension to the side and rear of an existing dwelling and the construction of a single-storey car port to the rear of the existing dwelling. The extension is subordinate to the existing dwelling and is generally acceptable in regards to overall scale in the context of visual amenity. I am satisfied that the extension would be acceptable in regards to the visual amenity of the area. The proposal for the car port is also acceptable in regards to visual amenity. The structure in question is single-storey and located to the rear of the existing dwelling rendering its visual impact negligible.

9.3 Development Plan policy:

- 9.3.1 The refusal reasons relate purely to failure to comply with Development Plan policy with the proposed development noted to materially contravene Development Plan policy SS35 and SS44. Under variation 4 of the Louth County Development Plan 2009-2015 (adopted 10th of September 2012, attached) a number of policies were varied including SS35 regarding site size and dwelling size, SS40 in relation to extensions, and SS44 in relation to garages and outbuildings.
- 9.3.2 Refusal reason one relates to the car port and the fact it is contrary Policy SS 44, which is to limit the size and scale of detached domestic garages and other domestic outbuildings to 100sqm taken cumulatively to reduce visual impact, protect the character of the landscape and protect amenities of adjoining properties. The car port has a floor area of 54sqm and taken with the existing detached garage on site (96sqm) the cumulative floor area of garages/outbuildings is 150sqm and in excess of the restrictions under Policy SS 44. The appellant argues that as the structure is a car port and is not fully enclosed it should not be assessed as a building and taken into account in regards to Policy SS 44. Although not enclosed by walls on all sides, the car port does come under the category of an outbuilding/garage. The floor area enclosed by the roof is 54sqm and taken in conjunction with the existing garage would exceed the limits set down under Policy SS 44 and would, therefore, be contrary to stated policy.
- 9.3.3 Policy SS35 (attached) requires that each site for a new dwelling within all development zones shall have a minimum site area of not less than 0.2 hectares and that dwellings in excess of 200sqm shall have a site size that is increased in ratio by 20sqm for each 1sqm of additional floor area. Refusal reason no. 1 notes that the proposal is contrary such policy as the extension would increase the floor area for this dwelling to 391sqm (from 271sqm) on a site that is 0.49 hectares in size. The appellant argues that this policy refers to 'new dwellings' and does not relate to extensions. Policy SS40 (attached) states 'to limit the size of extensions to not more than 100% of the floor area of the original dwelling subject to dwelling/site size ratio requirements detailed in Policy SS 35'. Policy for extensions is linked to policy regarding dwelling size and site size set down under Policy SS 35. Based on such policy the proposal to extend the existing dwelling would be contrary both Policy SS 40 and the restrictions set down under Policy SS 35.
- 9.3.4 As noted in the previous section of this report, I am satisfied with the design and scale of the proposed extension and car port and such would not be detrimental to the visual amenities of the area. Notwithstanding such the scale of development would be contrary stated policy as set out

under the Development Plan, specifically, Policy SS 35, SS 40 and SS 44. Permission was refused on the basis that the proposed works would materially contravene Development Plan policy. Under section 37(2)(a) of the Planning and Development Act, 2000 (as amended) it states that...

Subject to *paragraph (b)*, the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority whose decision the appeal relates.

Under section 37(2)(b) of the Planning and Development Act, 2000 (as amended) it states that...

“Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that-

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted in the area since the making of the development plan.

9.3.5 I consider that development plan policy under Policies SS 35, SS 40 and SS 44 are clearly stated. I do not consider that there are any instances in which the development comes under the four exceptions under which the Board can grant permission under the Section 37(2)(a) of the Planning and Development Act, 2000 (as amended).

RECOMMENDATION

I recommend refusal based on the following reason.

REASONS AND CONSIDERATIONS

1. Having regard to the reasons for refusal as given by the planning authority, which state that the proposed development materially contravenes the Louth County Development Plan 2009-2015, and to the provisions of Section 37(2)(b) of the Planning and Development Act 2000, it is considered that the proposed development does not come within the scope of the exceptions (i – iv) set out in

PL15.243360

that section and the Board is, therefore, precluded from considering a grant of permission in this case.

Colin McBride
15th July 2014