



An
Bord
Pleanála

Inspector's Report

ABP-306906-20

Development	Retention of change from a glazed window to a glazed door and retention of safety rails around the perimeter of the flat roof.
Location	Main Street , Kinnegad , Co Westmeath
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	196352
Applicant	Bob Wiley
Type of Application	Retention
Planning Authority Decision	Refuse Retention
Type of Appeal	First Party
Appellant	Bob Wiley
Observer	Mary Coyne
Date of Site Inspection	8 th June 20120
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at the south side of Main Street, Kinnegad, County Westmeath in the centre of the town, opposite the RC church and associated square. The site is occupied by a two storey detached building comprising two commercial units at ground floor, one to either side of an access to first floor residential units. Gates to either side of the building appear to belong to the adjoining properties, there being no apparent off-street access to the subject property. A single storey rear return to the larger of the commercial units (the western one), is the flat roof the subject of the application/appeal.
- 1.1.2. The site is given as 0.035ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the retention of the change from a glazed window to a glazed door and the retention of safety rails around the perimeter of the flat roof.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to refuse planning for the following reason:

The development by reason of its design and the overall area of the balcony permits access onto the balcony and would result in an unacceptable form of development, out of keeping with the character of the area and would seriously injure the residential amenities of neighbouring properties by reason of overlooking and loss of privacy. The development would be contrary to Section 14.3.2 of the County Development Plan 2014-2020 and to the proper planning and development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The planning report includes:

- Reference to the planning history, including a complaint about the use of the roof as a balcony.
- On the date of inspection the Executive Planner was able to go out onto the flat roof/balcony and look into the adjoining properties. The development results in the loss of privacy to the adjoining properties.
- Issues regarding party walls are civil matters.
- Recommending refusal; which issued.

3.2.2. Other Technical Reports

Area Engineer – no objection.

Fire Officer – no objection, subject to conditions.

3.3. Prescribed Bodies

IW – no objection.

3.4. Third Party Observations

- 3.4.1. Two Third Party observations were received from the properties to either side, which include:

Loss of privacy and overlooking,

Contrary to original permission

Built on a wall between his property and neighbour's

Re. building rubble in neighbour's garden.

Contrary to development plan

External wall abutting neighbour's property

4.0 Planning History

19-6053 planning permission granted for construction of a new single storey extension to the rear of existing property.

18-6157 planning permission granted for construction of a new single storey extension to the rear of existing property.

An Bord Pleanála Ref PL25.243288, PA Reg Ref 14-6012, retention of ground floor, first floor and roof profile (a singular double pitched, roof profile) at Main Street, Kinnegad, Co. Westmeath, granted (first party appeal against a financial contribution).

08-5033 planning permission granted for change of use of existing real estate office to betting shop office, minor alterations to signage.

01-368 planning permission granted for conversion of existing retail units to two retail units and 2 apartments (two double pitched roofs with valley, roof profile).

S21-19 determination that the change of part of a window to a glass door at first floor level with an access onto a flat roof single storey extension, was development and not exempted development.

Enf 19065 – enforcement file regarding a complaint re, use of the roof as a balcony and change of window to door.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Westmeath County Development Plan 2014-2020 is the operative Plan, it includes:

14.3.2 Extensions and alterations to dwellings - extensions to existing dwellings will be assessed in terms of the degree of impact on existing adjacent residential amenity and the design approach adopted. Impact on residential amenity can result from over-shadowing, loss of light and loss of outlook or from loss of privacy resulting from overlooking. Extensions will not be permitted where they result in an unacceptable negative impact to adjacent residential amenity.

5.2. Natural Heritage Designations

The nearest Natural site is Mount Hevey Bog SAC (site code 002342) located c 1.8km straight line distance from the subject site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal against the Planning Authority's decision to refuse retention submitted by John Madden & Associates, includes:

- My Wiley is 76 years old and lives on the premises.
- My Wiley took out the window and installed a smaller window with a glazed door to the site. He did not widen the opening. The deepening increased light into his bedroom by 1m².
- The door is now a second means of escape onto the flat roof.
- To access the roof previously, Mr Wiley had to go up a step ladder, which is very dangerous for a man of his age.
- This alternation is not going to impact on anyone as it will be used occasionally to clean down the roof.

6.2. Observation

An observation has been received from Mary Coyne who lives in an adjoining property. The observation includes:

The concerns expressed to the planning authority are reiterated. The roof garden overlooks both properties on either side and a photo from her property is supplied. It is clearly the intention to use the space as a roof garden.

7.0 Assessment

7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, and residential amenity and the following assessment is dealt with under these headings.

7.2. Appropriate Assessment

7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues arise and it is not considered 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.

7.3. Residential Amenity

7.3.1. The development proposed for retention includes a railed in area at first floor level, which the proposed doorway would facilitate access to. In observations to the planning authority from the neighbours on either side, expressing concerns regarding overlooking, this area is referred to as a grassed garden, and photographs are supplied.

7.3.2. Although it is stated in the grounds of appeal that the door facilitates access to the roof for maintenance, both the door and railings also facilitate the use of the roof as an outdoor amenity space for the apartment.

7.3.3. In my opinion an outdoor space could be developed on this roof, if it was provided with a perimeter which secured the safety of the area and the privacy of both users and neighbours. I am not satisfied that the two bar railings provide a safe perimeter for users of the roof as an amenity space. Nor am I satisfied that there has been any attempt to protect the privacy of either adjoining properties or the subject property. In my opinion the residential amenities of all parties would be compromised by the retention.

7.3.4. The County Development Plan (14.3.2), referred to in the reason for refusal, states that extensions and alterations to dwellings will be assessed in terms of the degree of impact on existing adjacent residential amenity.

8.0 Recommendation

8.1.1. In light of the foregoing assessment I recommend that planning permission to retain should be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

The door proposed for retention provides access to a first floor area where overlooking of neighbouring properties and overlooking from neighbouring properties would occur, and the railings proposed for retention would not provide for the safe and secure use of the area or protect the privacy of users of the space or of the adjoining residential properties, accordingly to permit the retention of the door and railings would be contrary to the proper planning and sustainable development of the area.

Planning Inspector

17th June 2020

Appendices

- 1 Photographs
- 2 Extracts from the Westmeath County Development Plan 2014-2020