



An
Bord
Pleanála

Inspector's Report ABP-307238-20

Development	Retention of extension to house
Location	107 New Marion Park, Tralee, County Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	19/1198
Applicant(s)	Peter Williams & Lorraine O'Sullivan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	
Appellant(s)	Peter Williams & Lorraine O'Sullivan
Observer(s)	Maciej & Monika Paczuska
Date of Site Inspection	15 th July, 2020
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is located within the residential estate of New Marian Park on the east side of Tralee. No. 107 is a terraced, two-storey house with a recently constructed single-storey extension to the rear. It is flanked by terraced houses. The observers' house is located immediately to the north-west of No. 107.

2.0 Proposed Development

- 2.1. The proposed development would comprise the retention of an extension to the rear of the house. The extension is single-storey in height with a mono-pitch roof and is stated to be 37 square metres in area. It consists of a new kitchen/dining area.

3.0 Planning Authority Decision

3.1. Decision

On 4th March 2020, Kerry County Council decided to refuse permission for the proposed development for one reason relating to impact on residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted development plan provisions and the objection received. It was submitted that the available open space to the rear of the extension is less than the 10 square metres shown in the submitted drawings. It was considered that the open space is inadequate and injurious to the amenities of the occupants of the house. It was also considered that the proposal is injurious to the amenities of adjoining properties given the extent of the development relative to the garden size. The proposal was seen to be substandard, constituting overdevelopment and providing inadequate open space that would set an undesirable precedent. A refusal of permission was recommended.

3.3. **Third Party Observations**

An objection to the proposed development was received from Maciej and Monika Paczuska. The observation to the Board reflects the concerns raised.

4.0 **Planning History**

I have no record of any previous planning application or appeal relating to the site.

5.0 **Policy Context**

5.1. **Tralee Town Development Plan 2009-2015 (Extended)**

Zoning

The site is zoned 'Residential' with the objective "To protect and improve residential areas and to provide for facilities and amenities incidental to those residential areas."

Extensions to Dwellings

The design and layout of extensions to houses should respect existing residential and visual amenity. The existing character and form should be respected. The following urban design principles shall apply for extension proposals:

- Extensions that overshadow windows, yards, or gardens and new windows in flank walls, which would reduce a neighbour's privacy, should be avoided
- External finish and roof materials should match that of the existing structure
- Positioning and size of windows and other openings should reflect the existing character of the structure
- Where a single storey side extension is proposed, a 150mm set-back from the front building line is recommended to improve the external appearance of the extension
- Retain a 1m gap between the extension and neighbouring dwellings to prevent dwellings from becoming a terrace and to facilitate access to the rear of the dwelling
- Flat roofs are not recommended as visually they can detract from the external appearance of a dwelling and can lead to maintenance problems. The use of hipped or pitched roofs is generally recommended

- Dormer extensions should not obscure the main features of the existing roof and break the ridge or eaves lines of the roof. Box dormers are not recommended.

5.2. **Appropriate Assessment**

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.3. **EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of the appeal may be synthesised as follows:

- The principle of the extension was to provide a ground floor layout that would be accessible to Lorraine O'Sullivan who suffers from a degenerative disc disorder.
- New Marian Park is an established housing estate and current guidelines requiring 64 sq.m of private open space is for new developments and do not refer to existing developments where private open space was less than that.
- It is refuted that the extension is causing overshadowing. The rear garden of No. 106 has always been subject to overshadowing due to the boundary fence and orientation of the garden and existing structures.

- The primary residential amenity space needs to be within the appellants' house. Rear garden space is uncomfortable to use due to orientation and shading and is of no value.
- A reduction in floor area would immediately impact on usable space and introduce obstacles for the appellant.
- The private open space to the rear is adequate for the appellants' needs.
- The extension has no impact on adjoining properties and cannot be considered injurious.
- Suggesting that the extension constitutes substandard development fails to consider the fact that the extension is built to the highest standards.
- The proposal cannot set a precedent given the appellant's specific condition.

The appeal includes a letter from the neighbour at No. 108 confirming there is no objection to the extension and a letter relating to treatment of the appellant's degenerative disc disorder.

6.2. Planning Authority Response

The planning authority reiterated that the extent of private open space provided is inadequate and that the extension impacts on the amenities of adjoining gardens due to the extent of development relative to garden sizes and the amount of development along shared boundaries. It is submitted that having a building adjacent to most of a shared boundary is injurious to the amenities of the adjoining properties and that the extent of development for the site size is excessive, constitutes overdevelopment, and results in substandard development. Noting the appellant's particular circumstances, it is submitted that it is necessary for the planning authority to maintain satisfactory standards of development generally. The proposal is seen to set an undesirable precedent. It is further noted that the development was constructed without planning permission and that it may have been possible to design a more satisfactory extension through pre-planning and an application process rather than a retention permission. It is concluded that the proposal is contrary to the proper planning and sustainable development of the area.

6.3. Observations

The observers raised concerns relating to scale and overdevelopment of the proposal, overshadowing arising, and the importance of quality private open space.

7.0 Assessment

7.1 Introduction

7.1.1 I consider that the principal planning issues relate to the proposal in the context of development plan provisions and the impact on residential amenity.

7.2 The Development in the Context of Development Plan Provisions

7.2.1 The current Tralee Town Development Plan has specific provisions that relate to extensions to dwellings. It is required that the design and layout of extensions respect existing residential and visual amenity and that the existing character and form should be respected. The issue of impact on residential amenity shall be referred to also in the following section of this assessment. It is pertinent to note that the extension the subject of the appeal is an extension to the rear of the house, is not visible from the public realm, and is not understood to have any known impact on the wider visual amenity of the area in which it is located.

7.2.2 The provisions of the Development Plan relating to house extensions also set out urban design principles to be applied. A number of the principles do not apply to the proposed development, notably the provisions relating to side and dormer extensions. The following comments are made in relation to the other design principles:

- The existing extension is deeper than the existing house, occupies almost the full width of the original yard to the rear of the house, leaving a rear yard area less than two metres in depth, and rising to a stated height of 3.255 metres. It rises above the fencing that flanks the site with No. 106 New Marian Park and lies south-east of this property. This extension, due to its height, depth and orientation (sited to the south-east of No. 106 New Marian Park) causes

overshadowing of the neighbouring property. The Development Plan provisions request that such extensions should be avoided.

- The external finishes and roof materials could not reasonably be seen to be incompatible with the existing house.
- The form and character of the fenestration in the extension could not reasonably be seen to be incompatible with the existing house.
- The extension occupies almost the full width of the terraced site. Being mid-terrace it has not been able to facilitate access to the rear of the dwelling without going through the house itself. Having regard to the width of the extension and the provision of fenestration on the side elevation, it is apparent that this is likely to impact on the developability of adjoining property. The retention of a 1m gap between the extension and neighbouring dwellings has not been achieved.
- The mono-pitch roof could not reasonably be seen to be out of character in its context.

7.2.3 It is clear from the above that the extension that has been built on this site significantly fails to meet with basic design principles espoused in the Tralee Town Development Plan which seek to protect residential and visual amenity.

7.3 Impact on Residential Amenity

7.3.1 The unauthorised extension that has been constructed constitutes a gross overdevelopment of this site, with material adverse consequences for the sustainability of this property in terms of providing for the amenity needs of occupants of this house into the future and in terms of the significant adverse impacts the extension has on the amenities of neighbouring property.

7.3.2 The extent of the development has been alluded to in the previous section of this assessment. It is excessive in width and depth, has adverse consequences in terms of height, causing overshadowing for much of the extent of the neighbouring rear

garden / yard area of No. 106, and it seriously undermines the developability of the neighbouring property into the future due to this overdevelopment, the scale and extent of the development, the provision of windows on the side elevation, etc.

7.3.3 It is clear that the extension proceeded without any consultation with the planning authority. As has been pointed out by the planning authority, it would have been possible to design an extension to the rear of this property, through consultation with the planning authority, in a manner that would have been more satisfactory to its context. Due regard was not given to the serious adverse impact arising for neighbouring property. There are significant adverse impacts for residential amenity of the neighbouring property that could have been avoided if pre-development consultation has taken place and consideration was given in the design to the impact the extension could have on neighbouring property. This was not the case in this instance.

7.3.4 With regard to the impact of the extension on the amenities of occupants of the existing house on the site, it is clear that the extension has removed all but a very small outdoor leftover space that is overshadowed at the very back of this site. The leftover space has been subdivided by fencing, separating the oil tank and area around it from the remainder of the remaining yard. This remaining yard area is less than 7 square metres in area and is less than two metres in depth. It is wholly inadequate to meet basic private amenity space needs of the occupants of this house. It is not an adequate functional private amenity space. While the applicant's medical condition is referenced in the application and appeal submissions, there is a basic requirement for planning authorities to have regard to the proper planning and sustainable development of the area and this unquestionably includes the sustainability of this property into the future and ensuring basic provision of functional private amenity space for dwellings. This development has culminated in substandard accommodation for occupants of this house and is gross overdevelopment of this small terraced house plot.

8.0 Recommendation

- 8.1. I recommend that permission is refused in accordance with the following reasons and considerations.,

9.0 Reasons and Considerations

It is considered that the extension constitutes overdevelopment of a restricted site, results in substandard development in terms of residential amenity for the occupants of the house due to the seriously inadequate private amenity space remaining, and, by virtue of its orientation, proximity to neighbouring residential property, scale, and height, would seriously injure the residential amenities of property in the vicinity by way of overshadowing and adversely impacting on the future developability of the neighbouring property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

22nd July 2020