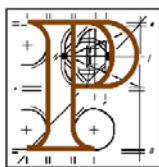


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL09.246031

Development: Change of use from commercial to residential, modifications to existing internal arrangement of the building, extension to the rear to provide 2 additional bedrooms.
6 New Row, Naas, Co. Kildare.

Planning Application

Planning Authority: Kildare County Council

Planning Authority Reg. Ref.: 15/757

Applicant: Matthew Johnson

Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant(s): Matthew Johnson

Type of Appeal: First Party v Refusal

Observers: Chris Glennon

Date of Site Inspection: 25th April 2016

Inspector: Sarah Moran

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located on the R445 (old N7), at the southern end of the centre of Naas, Co. Kildare. It comprises a two storey building with associated yard to the rear. It is at the end of a terrace of vernacular townhouses. The rear yard is accessed via an existing backland area / public car park off the R445. The immediate surroundings of the site are as follows:
- Private 2 storey terraced property to the immediate west (owned by the above named observer).
 - Public car park to the immediate east.
 - Public road to the south.
 - There is a large 3 storey modern dwelling currently under construction to the immediate north of the site, which is also accessed via the public car park. There is a high stone wall along the rear (northern) site boundary, which is shared with this property.
- 1.2 The existing building is unoccupied and boarded up at present but appears to have been in commercial use at some time in the past. The front elevation has been amended by the inclusion of larger windows at ground floor level and the insertion of a new front door. There is a large opening in the side boundary of the site that faces the public car park, which appears to have been recently created. In addition, a single storey extension to the rear of the building has been demolished.

2.0 PROPOSED DEVELOPMENT

- 2.1 Permission is sought to convert the existing building into a dwelling with internal modifications and to construct a two storey extension to the rear containing additional residential accommodation. The development also involves changes to the street elevation and associated site works and services. The applicant submitted additional particulars including a revised design to the PA as further information on 16th November 2015.

3.0 PLANNING HISTORY

- 3.1 There is no planning history on file in relation to the subject site.
- 3.2 There have been several planning applications in relation to the residential development to the immediate north of the subject site. Permission was refused for 8 no. apartments on the site under **02500121**, on grounds relating to traffic hazard, inadequate car parking; contravention of Town Development Plan policy in relation to height and design; over-development of the site and fire hazard. Permission was refused for an infill housing development comprising a 2 storey townhouse and 4 no. apartments under **07500149**, on grounds relating to traffic hazard and inadequate parking provision. Permission was granted for the demolition of derelict sheds and the

construction of a 3 storey house with a vehicular entrance from the public car park under **13500066**. The permitted house is currently under construction to the rear of the subject site.

- 3.3 The applicant submitted details of a development granted at a building further west on New Row, ref. **98/500149**. Permission was granted for changes to a development already permitted under reg. ref. 89/97 and PL73.103054, comprising 2 no. ground floor shops and associated shop fronts and office use at first floor level, also new stairwell to the rear of the existing development.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and Technical Reports

- 4.1.1 Kildare County Council Naas Area Engineer comment 12th October 2015. Application should be refused until the unauthorised entrance to the rear is rectified.
- 4.1.2 Kildare County Council Environment Section 5th October 2015. No objection subject to conditions.
- 4.1.3 Kildare County Council Water Services 15th September 2015. Recommends conditions. Irish Water comment 18th September 2015. No objection.
- 4.1.4 Planning report dated 16th October 2015. Notes the presence of an unauthorised vehicular entrance to the rear of the building, which is displacing at least one space within the adjoining public car park. Requires further information to clarify this issue. Also concerns about potential overshadowing of the property to the immediate west of the site and visual impacts of the development as it is located within an Architectural Conservation Area. Attached Appropriate Assessment (AA) screening concludes that significant impacts on Natura sites can be ruled out. Second planning report dated 8th December 2015 on foot of further information recommends refusal on grounds relating to overbearing impact on the adjoining property to the west; adverse impact on the ACA and insufficient legal interest / right to access the property to the rear.

4.2 Third Party Submissions

- 4.2.1 There was one no. third party submission to the PA, submitted by the above named observer, which objected to the development on grounds relating to:
- Lack of details regarding the applicant. Applicant does not live at the subject site
 - Reference to a 1987 permission for the existing side entrance is unreliable and extremely questionable under current law. A previous

extension to the existing building was recently demolished without planning permission.

- The proposed rear entrance would create a right-of-way across the public car park and would eliminate 2 no. car parking spaces.
- An additional front door was created to the front elevation, also without permission. The subject application seeks to retain this door, concerns about impacts on the adjoining house.
- Concerns about overlooking of the adjoining property.
- There has been no commercial activity at this property for over 5 decades.

4.2.2 In addition, a letter of support was submitted by the owner of lands to the north of the site.

4.3 Planning Authority Decision

4.3.1 The PA sought further information on 16th October 2015, for issues relating to residential and visual impacts of the rear extension; potential overshadowing of the property to the west; revised design to meet specifications with regard to the location of the site within Naas ACA; clarification regarding the rear vehicular access; applicant to address issues raised in the third party submission.

4.3.2 The PA refused permission on 10th December 2015, for 3 no. reasons relating to 1) overbearing impact on the adjoining property to the west of the site, contravention of section 13.3.6 of the Naas Town Development Plan 2011-2017; 2) adverse impacts on the intrinsic architectural character of the terrace within Naas ACA, over development of the site, undesirable precedent, contravention of section 11.4.3 of Naas TDP; 3) applicant has not demonstrated sufficient legal interest / right to access the existing property to the rear.

5.0 GROUNDS OF FIRST PARTY APPEAL

5.1 The main points made may be summarised as follows:

- The existing premises urgently needs renovation. The size and scale are inadequate to comply with current regulatory standards. An extension is necessary to bring the structure into any effective use.
- The extension was designed as a transition between the original Victorian streetscape and the modern family home under construction to the rear of the site. It would not impact on the adjoining structure to the west, it does not contravene TDP section 13.3.6. Photomontages of the proposed structure are submitted. It has been designed to minimise height and scale. The surroundings are mixed in scale.
- There are no windows to the western elevation to avoid overlooking. Only the front driveway of the house under construction to the rear would be

overlooked. This limited overlooking has been mitigated to the satisfaction of the owner of that property.

- An extensive report on overshadowing shows no significant depletion of sunlight to the existing property to the west. The entire rear of the property to the west is overgrown and it is not a habitable dwelling. Any refurbishment of the building to the west would probably involve an extension to the rear.
- The proposal meets development plan standards regarding the provision of private open space.
- The appeal submission outlines the recent history of the terrace and works carried out at the subject site. The current proposal would restore the building to its original fenestration. It would save this historic element of the property. It is unclear as to how the PA do not see the current proposal as reinforcing and enhancing the historic nature of the building in providing town centre accommodation while repairing and restoring the historic fabric of the building. The building is in very poor condition and there is an urgent need for intervention in order to retain the structure into the future.
- The existing gate access to the rear of the site was granted planning permission in 1987 under planning ref. 2108. The grant of permission does not infer a right to use the access. Permission was granted for a vehicular access from the same car park to facilitate the residential development to the rear of the site. Extracts from correspondence with Naas Town Clerk regarding the vehicular entrance dating from 1995 are submitted.
- The development is in accordance with TDP objective 4.4.1 regarding town centre/brownfield development. The site is <500m from Naas Post Office bus hub.
- A site at the other end of the terrace has been developed as a commercial premises, including the back garden, with no green space remaining.
- The proposed design leaves sufficient private open space to comply with development plan standards.
- The development is in accordance with TDP objectives to encourage residents to live in Naas town centre.
- The appeal submission is accompanied by drawings and photomontages of the proposed development, also overshadowing diagrams.

6.0 RESPONSE OF PLANNING AUTHORITY TO FIRST PARTY APPEAL

6.1 The PA makes the following points in response to the appeal:

- Permission for the unauthorised entrance to the public car park would result in the removal of existing spaces from the car park and an associated loss of revenue and public facilities.
- The development is unsympathetic to the original built heritage structure and existing urban form and street character of Naas ACA.

7.0 OBSERVER SUBMISSION

7.1 The observer owns the adjoining property to the immediate west of the subject site. The main points made may be summarised as follows:

- The development would create a right of way across the public car park. Permission was obtained for an entrance to the rear of the site by a previous owner. However, an extension was built to the rear and the permitted entrance was closed up. The public car park was constructed since this occurred. This car park is very valuable to the businesses in the area. The extension constructed to the rear was demolished recently.
- The appeal does not identify the true owner of the subject site.
- The appeal does not address the issue of adverse impacts on the adjoining property to the west. A 2 storey extension at this location would overlook and overshadow the observer's property and seriously compromise any attempt to develop it in the future.
- Concern that the development would become conjoined with the large residential development under construction to the immediate north of the development site, especially since the shared boundary has been removed.
- It is submitted that the subject site was never a commercial property.

8.0 POLICY CONTEXT

8.1 Naas Town Development Plan 2011-2017

8.1.1 The site is located within the development boundary of Naas, on lands zoned 'A', 'Town Centre', where it is an objective:

"To provide for the development and improvement of appropriate town centre uses including retail, residential, commercial and civic uses."

Town centre policies set out in TDP Chapter 5 include a stated aim to:

"Encourage increased town centre residential development based on good urban design and seek to enhance the vitality and vibrancy of the town centre with safe and attractive spaces to promote the town centre as a desirable place to work, live and visit."

TDP section 5.3 states that any proposed residential use must respect the historic fabric, whilst also providing adequate residential amenity. All applications for residential development will be assessed against the policies outlined in Chapter 13 Development Management, however in exceptional circumstances these standards may be relaxed in the town centre.

8.1.2 TDP Chapter 4 section 4.4.1 deals with infill / brownfield residential development and notes that there are undeveloped backland sites and

brownfield sites within the town centre where there are opportunities for re-development at higher densities. In order to maximise town centre population growth, higher residential densities will be considered subject to the following safeguards:

- *Avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;*
- *Good internal space standards of development;*
- *Recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of the Architectural Conservation Area; and*
- *Compliance with development management standards, including private open space.*

Section 4.6.1 states that the construction of extensions to houses will generally be encouraged as a sustainable use of land.

8.1.3 TDP section 7.6 states an aim to ensure that there is a sufficient supply of parking spaces to support the town centre businesses and that these spaces are effectively managed. Policy PK1 states:

PK1: To optimise the use of existing parking stock, and to provide, facilitate and regulate the provision of parking spaces conveniently located to serve the various land uses.

8.1.4 The site is located within the boundary of Naas town Architectural Conservation Area (ACA). There are no protected structures in the immediate vicinity. TDP section 11.4.3 states that the following factors are to be considered in assessing future development proposals within the ACA:

- *Impact of proposed development on the immediate environs of the streetscape in terms of compatibility of character, design, and finishes, massing of built form and intensity of site use;*
- *Impact of proposed development on the existing amenities, character and heritage of the area.*
- *Likely impact of the proposed use on the character of the area.*

Section 11.4.4 states the following in relation to vernacular heritage, particularly dwellings:

The loss of vernacular architecture is seen not only in the loss of whole buildings but also in the gradual erosion of details such as the replacement of roof coverings and windows with modern materials, removal of external render, inappropriate re-pointing and the addition of inappropriate extensions. Alterations to individual buildings can have a significant and cumulative effect on streetscapes and landscapes. By the very nature of vernacular

architectural heritage, it is normally the case that they are the most sustainable forms of construction, built with local materials in a style responding to local conditions, with a low energy use. Any changes to vernacular architecture need to be sympathetic to the special features and character of the building.

The following TDP architectural heritage policies are relevant:

ATH3: To encourage the rehabilitation, renovation and re-use of older structures, where appropriate. Such rehabilitation, renovation and re-use works to existing vernacular structures must positively contribute to the streetscape of the area and shall have regard to bats and their roosts.

ATH12: To ensure that any development, modifications, alterations, or extensions within an Architectural Conservation Area are sited and designed appropriately, and are not detrimental to the character of the structure or to its setting or the general character of the ACA.

8.1.5 TDP Chapter 13 sets out general development management standards. Section 13.3.6 provides guidance for extensions to dwellings. The following basic principles are to be applied:

- *The extension should be sensitive to the existing dwelling and should not adversely distort the scale or mass of the structure, or adjoining properties.*
- *While the form, size and appearance of an extension should complement the area, and the design and scale should have regard to adjoining properties. A flexible approach will be taken to the assessment of alternative design concepts. In particular contemporary designs will be encouraged.*
- *The extension should not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed.*
- *In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities.*
- *New extensions should not overshadow adjacent dwellings to the degree that there is a significant decrease in day or sunlight entering into the house.*
- *In all cases a minimum private rear garden area must be retained.*

Section 13.1.3 states that the Council will have regard to the following in ACAs:

- *The effect of the proposed development on buildings and the surrounding environment, both natural and man-made.*

- *The impact of development on the immediate streetscape in terms of design, scale, height, plot, width, roof treatment, materials, landscaping, mix and intensity of use proposed.*
- *New alterations and extensions should complement existing buildings/structures in terms of design, external finishes, colour, texture, windows / doors/ roof/ chimney/ design and other details.*

9.0 ASSESSMENT

9.1 The proposed development is acceptable in principle with regard to the Town Centre zoning of the site and to the above policies of Naas Town Development Plan 2011-2017. The following issues are considered relevant in this case:

- Impacts on residential amenities
- Visual impact within Naas Architectural Conservation Area
- Access and Parking
- Appropriate Assessment
- Conclusion

Each issue may be considered separately as follows.

9.2 Impacts on Residential Amenities

9.2.1 There are residential properties to the immediate west and north of the subject site. Potential impacts on residential amenities primarily relate to overlooking and overshadowing.

9.2.2 The development, as initially proposed in the application lodged on 24th August 2015, involves a 2 storey extension projecting almost 13m from the existing rear elevation (15.5m from the ridge of the existing building). The structure has a flat roof design, increasing its overall bulk. Although there would be no overlooking to the west due to a lack of windows in the western elevation, the development would present a large, blank elevation to the adjoining property, thus having an adverse impact on the outlook of that property. The rear elevation is set back 6m from the northern site boundary and the first floor windows in the northern elevation are angled to prevent overlooking of the side and rear of the residential property to the immediate north. The shadow diagrams submitted with the proposal indicate significant overshadowing of the rear garden of the adjoining property to the west, particularly during autumn / winter. The overall length and bulk of the rear extension is largely unchanged in the revised proposal submitted as further information on 16th November 2015. The design of the western elevation has been amended such that the height of the area adjoining the rear of the existing house has been reduced by 0.5m and this area is clad in grey flashing, which gives some variety to the side elevations. However, I consider that the revised design would still result in a large, visually obtrusive structure, facing the rear garden of the property to the immediate west. While the

extension has again been designed to prevent overlooking, overshadowing remains an issue.

- 9.2.3 I accept that the renovation of the existing building is a desirable aspect of the development and that a substantial extension is necessary in order to achieve a residential unit that meets modern living standards. In addition, I am satisfied that there would be no significant adverse impacts on the property to the north with regard to the intervening setback and to the design of the first floor windows of the proposed structure. However, I consider that the proposed extension would have an undue adverse impact on the residential amenities of the property to the immediate west by way of overshadowing and visual obtrusion, due to its bulk and scale.

9.3 Design and Visual Impacts on Naas ACA

- 9.3.1 Potential visual impacts on the Naas ACA have been considered with regard to the guidance provided in the Naas TDP and in the DoELHG document *Architectural Heritage Protection Guidelines for Planning Authorities* (2004), in particular section 6.8 of same, which provides guidance on extensions.

- 9.3.2 The existing building is unoccupied at present and in a boarded up condition. A sensitive renovation would undoubtedly improve the overall character and appearance of the ACA. The rear extension would have limited visibility from the public realm. The eastern side of the extension, facing the car park, is set back from the eastern site boundary, to allow for the creation of a car parking space accessed from the car park. The elevation is simple in style and finished in white plaster. I consider that the extension is generally compatible with the character of the ACA, subject to the use of satisfactory materials and finishes. This could be a condition of permission if the Board is minded to grant permission (I note, for example, the use of white PVC windows, which would generally be unacceptable in an ACA). The proposed front elevation involves the retention of a recently inserted additional front door and new, modern windows at ground floor level. The windows at first floor level would also be modified. I note that the fenestration of the adjoining building to the west has also been altered at some stage. However, the amendments to the front elevation represent a further deterioration of the character of the original terraced house would therefore have an adverse impact on the character of the ACA.

9.4 Access and Parking

- 9.4.1 The eastern site boundary abuts a public car park, which has 9 no. car parking spaces, used to serve visitors to the adjacent Naas town centre. A new opening has recently been created in the eastern site boundary. The proposed layout involves the creation of a new vehicular access at this location, to facilitate a car parking space within the development. The planning authority is not satisfied with this aspect of the development on the

grounds that (i) the existing access is unauthorised and (ii) the access would render several spaces within the public car park unusable.

9.4.2 The applicant states that permission was granted for a vehicular access at this location in the 1980s, planning ref. 2108. There is no record of same on file, although the applicant has submitted a copy of related correspondence with the Town Clerk, dating to 1995. It is submitted that a yellow box was painted on the ground to permit the proposed entrance and I accept that same is still faintly visible at the site. However, any permission granted in the 1980s has long since expired. I note the well established presence of a public car park at this location and the stated concerns of the planning authority in relation to potential adverse impacts on same. These concerns are reasonable. I note the TDP objectives in relation to car parking, as set out above. I consider that the proposed development would contravene these, given that it would involve the removal of public car parking spaces. I accept that a new vehicular entrance has been created at the northern end of the car park, to facilitate the new dwelling under construction to the immediate north of the subject site. However, the creation of that entrance did not necessitate the removal of any existing car parking spaces.

9.5 Appropriate Assessment

9.5.1 Having regard to the nature and scale of the development within a fully serviced urban location, 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.

9.6 Conclusion

9.6.1 Having regard to the above assessment, it is considered that the proposed development would have adverse impacts on the residential amenities of the property to the immediate west by way of overshadowing and visual obtrusion. In addition, the development would have an adverse impact on the character of Naas town centre Architectural Conservation Area and would contravene policy PK1 of the Naas Town Development Plan 2011-2017. I therefore consider that permission should be refused for this development.

10.0 RECOMMENDATION

10.1 Having regard to the foregoing, I recommend that permission be refused for this development for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

1. The proposed development would seriously injure the residential amenities of the adjoining property to the west by way of overshadowing and visual obtrusion, due to its bulk and scale. The development would therefore be contrary to the proper planning and sustainable development of the area.
2. The front elevation of the development would have an adverse impact on the character of Naas town centre Architectural Conservation Area. The development would therefore contravene Naas Town Development Plan 2011-2017 policy ATH12, which seeks to ensure that any development, modifications, alterations, or extensions within the Architectural Conservation Area are sited and designed appropriately, and are not detrimental to the character of the structure or to its setting or the general character of the Architectural Conservation Area. The development would therefore be contrary to the proper planning and sustainable development of the area.
3. The proposed vehicular access and car parking area would have an adverse impact on the adjoining public car park and would contravene policy PK1 of the Naas Town Development Plan 2011-2017, which aims to optimise the use of existing parking stock, and to facilitate the provision of conveniently located car parking spaces. The development would therefore be contrary to the proper planning and sustainable development of the area.

Sarah Moran,
Senior Planning Inspector,
9th May 2016