



An  
Bord  
Pleanála

## Inspector's Report PL18.246913

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Development	Retention and completion of the existing attic into living accommodation, rooflights to front, fire escape windows to gables and relocation of front door with mono-pitched roof over porch.
Location	1 Mullaghcroghery, Park Road, Monaghan, Co. Monaghan
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	15/388
Applicant(s)	Jerome McGinnity
Type of Appeal	Third Party
Planning Authority Decision	GRANT
Appellant(s)	1. Bridie MacKenna
Observer(s)	None
Date of Site Inspection	14 <sup>th</sup> September 2016
Inspector	Niall Haverty

## 1.0 **Site Location and Description**

- 1.1. The appeal site comprises an existing detached two storey house on Park Road in Monaghan Town. The site is rectangular in shape and has a stated site area of 0.11 ha. It is bounded by Park Road to the west, the grounds of St Louis Convent to the east, and existing houses to the north and south. The house has a render finish and slate roof, with roof lights inserted to the front and rear and attic level windows on the north and south gable walls.
- 1.2. The house is located below the level of Park Road, with a significant drop in level across the site from west to east. The house immediately north of the appeal site (i.e. the appellant's house) is a single storey structure, while the remainder of the houses on this part of Park Road are generally a mix of two storey and dormer detached houses. The house is located forward of the building line established by the houses to the north, however it generally utilises the same building line as the houses to the south. The house immediately to the south of the appeal site is of very similar design, scale and massing to the applicant's house.

## 2.0 **Proposed Development**

- 2.1. The proposed development consists of retention and completion of the following:
- Conversion of existing attic to living accommodation (two bedrooms, bathroom and store room).
  - Three rooflights to front elevation.
  - Windows to both gables for fire escape purposes.
  - Relocation of front door to include a new mono-pitched roof over the porch.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Monaghan County Council decided to grant planning permission on 17<sup>th</sup> June 2016. Condition 2 required the window at second floor level on the northern elevation to be permanently fitted with obscure glass.

#### **3.2. Planning Authority Reports**

- 3.2.1. The report of the area planner can be summarised as follows:

- Submitted and approved plans for existing house did not specify obscure glazing on windows.
- Relocation of front door and monopitch roof porch will reflect design of house to the south.
- Gable wall window on the southern elevation will not result in overlooking issues since it faces gable of adjoining house.
- Gable wall window on northern elevation will not impact on rear garden of house to north.
- Full private residential amenity would not be enjoyed in objector's front garden area due to pedestrian footpath and public road to front of property.
- Obscure glass will mitigate against the objector's concern with respect to overlooking.
- The development does not require a Stage 2 Appropriate Assessment.

- Proposed development is acceptable in this urban area.

### 3.3. Other Technical Reports

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. One third party observation was made by Bridie MacKenna. I consider that the issues raised in the observation were similar to those set out in the grounds of appeal below.

## 4.0 Planning History

### 4.1. Subject Site

- **06/30030 (Monaghan Town Council Ref. 06/30):** Permission granted for construction of two storey/split level house, detached garage, entrance onto public road and boundary fencing.
- **Monaghan Town Council Reg. Refs. 17/99, 55/92, 14/91:** Relate to the combined appeal site and the site immediately to the south. None of these permissions were implemented:

### 4.2. Neighbouring Sites

4.2.1. The following planning applications relate to the site immediately south of the subject site:

- **06/30029 (Monaghan Town Council Ref. 06/29):** Permission granted to alter previously approved plans granted under Reg. Ref. 04/39 to construct two

storey/split level house, detached garage, entrance onto public road and boundary fencing.

- **04/30039 (Monaghan Town Council Ref. 39/04):** Permission granted for change of house type from that previously granted under Reg. Ref. 17/99, to construct two storey split level dwelling house, detached garage, connection to town sewer and site entrance.

## 5.0 Policy Context

5.1. The appeal site is zoned as 'Existing Residential' in the Monaghan County Development Plan 2013-2019. The purpose of this Zoning Objective is to protect and improve existing residential amenity. Section 8.3.2 of the Development Plan notes that development in existing residential areas should be in keeping with the established built character and not adversely impact upon the amenity of existing residential properties. Similarly, Section 15.11 notes that all developments must have regard to the potential impact upon the residential amenity of existing and permitted residential land uses in the vicinity.

5.2. Relevant Policies:

- **ADP1:** All new works should reflect the character, form, materials and design of the existing dwelling.
- **ADP4:** Extensions should not overshadow or overlook neighbouring properties or result in over development of the site.
- **AMP1:** Development which has an overbearing or dominant visual impact on residential properties in the vicinity of the development shall be resisted.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows:

- The appellant's only concern is in relation to protecting her privacy and residential amenity. She would be content for this appeal to be confined to the gable wall window as she does not object to the other works.
- Permission should be refused on the grounds of overlooking and that it would seriously injure the residential amenities and depreciate the value of property in the vicinity.
- The applicant's as-built house is more imposing than represented in the drawings submitted with planning application Ref. 06/30030, as a result of the request for additional information and road gradient issues which resulted in the permitted house being built more forward of the appellant's front building line and with a higher ground and ridge level than originally intended.
- Applicant's house has negatively impacted on appellant's privacy.
- Screening conifers on boundary were removed during construction of applicant's house. Replacement fence is inadequate since fall in ground levels mean that applicant's side entrance door is visible from appellant's property.
- Issues of boundary treatment and glazing would seem to have been missed by the Planning Authority in their assessment of application Ref. 06/30030.
- Appellant is elderly, has mobility issues and can only use the front area as outdoor amenity space due to level changes at rear.
- Front garden area receives good levels of sunlight and is screened sufficiently with landscaping to provide a good level of privacy from the public road.
- Application property was not inspected internally by the Planning Officer, nor was the window in question viewed from the appellant's house to appreciate the degree of overlooking.

- Gable window is contrary to zoning objective, due to adverse impact on appellant's property and departs from established design character on the road.
- Applicant's house would be the first on Park Road with 'third storey' gable window.
- Gable window fails to adhere to Development Plan Policies AMP1, ADP2 and ADP 4.
- Condition restricting opening of window would not be enforceable.
- Room with obscure glazed window would have poor outlook.
- Design of window is poor in terms of alignment and size relative to those on lower floors. Window at first floor level is not comparable, as it is narrow, serves a non-habitable room and is top-hung such that the openable portion is above eye level.
- Gable will result in actual and perceived overlooking, will be intrusive during hours of darkness and has potential for adverse noise.
- Board precedent cited for refusal of retention permission for new gable window in similar circumstances (Ref. PL13.230976).

## 6.2. Planning Authority Response

6.2.1. None received.

## 6.3. First Party Response

6.3.1. The applicant submitted a response to the third party appeal, which is summarised as follows:

- It would appear that the granting of the original permission for the house Reg. Ref. 06/30030 is still an issue for the appellant.
- Board is referred to applicant's response to request for additional information which dealt with impact on appellant's privacy (a copy of which was appended to the appeal response).
- In the absence of landscaping between the two properties there is a window of approx. 30m of uninterrupted view of the appellant's property from Park Road.
- First floor gable window is closer horizontally and vertically to appellant's property, is generally in open position and allows person to stand directly adjacent the window. Attic gable window is never open and furniture prohibits standing adjacent to window.
- Claim that window would be intrusive during hours of darkness is contradictory as appellant's main object is that window overlooks amenity area to front. Blackout blind is always closed during hours of darkness.
- No potential for adverse noise as window is 7m above ground level and is 10m horizontally from appellant's house and 15m from her front door.
- Adjacent house is mostly identical but has three levels internally. Applicant hoped to provide rooflights and no gable windows, but structural engineer concluded this was not possible.
- Board precedent quoted by appellant (Ref. PL13.230976) is not similar in any way other than that it happens to include a gable window.

#### **6.4. Observations**

- 6.4.1. No submissions/observations are on file from any other party.



## 7.0 **Assessment**

7.1. I consider the key issues in determining this appeal are as follows:

- Residential Amenity
- Visual Amenity
- Appropriate Assessment

### 7.2. **Residential Amenity**

7.2.1. The grounds of appeal largely relate to the proposed window in the gable elevation facing the front garden of the appellant's property. This window serves a bedroom in the attic and is located at a distance of c. 4m from the site boundary and c. 10m from the appellant's house. I confirmed on my site inspection that the opaque glazing used on the gable window is effective in eliminating any potential for overlooking when the window is in the closed position. The bedroom served by the window also has the benefit of a large west facing rooflight which provides the main source of sunlight and daylight into the room, since the gable window is north facing. This rooflight is openable and can be utilised to provide ventilation without having to open the gable window. In this regard I note that the stated use of the gable window is to provide a means of fire escape. With the gable window open to its full extent, the appellant's front garden area is visible, but there are no views into any rooms in the appellant's house, or of the rear garden area.

7.2.2. While the provision of private open space free from undue observation is a fundamental requirement for a good quality of residential amenity, I do not consider that a front garden area in an established suburban area can generally have the same expectation of privacy as a rear garden area. The area that can be seen from the gable window when it is open to its maximum extent is not significantly greater than can be seen from the public road at the entrance to the appellant's property.

- 7.2.3. I have reviewed the case referred to by the appellant as precedent (Ref. PL13.230976). I do not believe that it is a comparable case, as the gable window in that instance was closer to the site boundary (2.7m), was significantly larger (c. 1.8m x 1m) and as a south facing window was the main source of daylight and sunlight into the bedroom in question. It also materially contravened a Condition of a previous permission.
- 7.2.4. Having regard to the provision of obscure glazing in the gable window and the relative siting of the two houses I consider that the development will not result in a significant degree of overlooking or significantly exacerbate the overbearing impact of the applicant's house. Furthermore, I do not consider that the development has the potential to impact on the residential amenity of any other property in the vicinity.

### 7.3. Visual Amenity

- 7.3.1. The alterations to the porch area and the relocated front door complement the design of the existing house and are consistent with the similar house to the south. I consider this element of the development to be acceptable.
- 7.3.2. With regard to the rooflights located on the front elevation, I note that they are in the plane of the roof, and do not affect the roof profile or ridge height. They are outward opening, however. None of the houses in the immediate vicinity of the appeal site have rooflights to the front elevation, although many have dormer window arrangements.
- 7.3.3. I consider that the two larger rooflights respect the symmetrical design of the house and its fenestration and are consistent with the character of the structure. However, I consider that the placement of the smaller central rooflight, which is offset from the centre of the roof, slightly disrupts the otherwise symmetrical and harmonious fenestration arrangement. Notwithstanding this, however, I consider that the effect is not sufficiently injurious to visual amenity as to warrant refusal. There is a wide

variety of house types and styles in the immediate vicinity of the appeal site and I consider that the development is acceptable in terms of visual amenity.

#### **7.4. Other Matters**

- 7.4.1. I note that any works to convert an attic to habitable accommodation are required to comply with the relevant building regulations for such works. This is a separate code and is outside the scope of the current appeal.

#### **7.5. Appropriate Assessment**

- 7.5.1. The closest Natura 2000 site to the site is the Slieve Beagh Special Protection Area ('SPA'; Site Code 004167) which is located c. 10km to the north west. The single Conservation Objective for this SPA is to maintain or restore the favourable conservation condition of the Hen Harrier.
- 7.5.2. Having regard to the nature and scale of the proposed development, which comprises alterations to an existing house in a serviced residential area and the location of the site outside and at a distance (c. 10km) from any Natura 2000 site, no Appropriate Assessment issues arise and I do not consider 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.

#### **8.0 Recommendation**

- 8.1. I recommend that planning permission should be granted, subject to conditions as set out below.

#### **9.0 REASONS AND CONSIDERATIONS**

9.1. Having regard to the zoning objectives for the area and the pattern of development in the 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 in accordance with the proper planning and sustainable development of the area.

## 10.0 CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 1<sup>st</sup> day of June 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The gable window at attic level on the side (north) elevation shall permanently be glazed with obscure glass.

**Reason:** To prevent overlooking of adjoining residential property.

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid

prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Niall Haverty

Planning Inspector

30<sup>th</sup> September 2016