



An
Bord
Pleanála

Inspector's Report PL26.247218

Development	Alterations and extensions to an existing house and garage and construction of a house and garage with all associated site works
Location	Beak, Kilmore Quay County Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20160720
Applicant(s)	John Kennedy
Type of Application	Planning permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Brendan O'Flaherty
Observer(s)	None
Date of Site Inspection	11 th January 2017
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located within the built up area of Kilmore Quay village, on the R739 which is the main street leading to the harbour, (approx. 750m to the south). The site is located on the eastern side of the road, immediately to the south of the Garda Station and opposite a small housing estate, Ard na Ba, which adjoins the Saltee Hotel. The appeal site is a very long, narrow site (approx. 14m x 144.4m). The appellant's property, 'Four Winds', is located immediately to the south of the appeal site. It consists of an L-shaped bungalow on a large wedge-shaped site. However, the southern boundary of the appeal site extends approx. 33m further to the east of the appellant's property, and forms this latter boundary with another residential site to the south of 'Four Winds'. The northern boundary extends for approx. 70m along the Garda Station site and thereafter bounds a large agricultural field to the north. There is a further large agricultural field to the east, beyond which is the sea. The Garda station is a detached 2-storey building which is a Protected Structure and contains a large telecommunications mast to the rear.
- 1.2.** The site has a stated area of 0.19ha. It comprises a small cottage, one and half storeys in height, with a lean-to extension at the rear. The cottage is set back from the road with a small open plan garden and is also set back from each of the side boundaries by approx. 3m. There is a small enclosed garden to the rear, beyond which lies the remainder of the site. The site is largely enclosed and screened by means of hedging, trees and sections of walls/fences.

2.0 Proposed Development

- 2.1.** It is proposed to demolish the existing lean-to extension and to erect a two-storey extension to the rear of the existing cottage, and to erect a single-storey dwelling house at the eastern end of the site. The site would be sub-divided into two, with access to both sites along the northern boundary.
- 2.2.** Site A would extend approx. 50m from the road frontage and would be provided with a generous rear garden and a new garage to be constructed at the eastern end. The proposed extension has a stated floor area of 104sq.m, which would increase the floor area of the dwelling to 131sq.m. The design is contemporary with a flat roof and includes a first floor balcony to the rear.

- 2.3.** Site B would occupy the remainder of the site and would be provided with a further garage alongside the garage for site A. The proposed new dwelling (121sq.m) would be set back approx. 88m from the roadside boundary (approx. 38m from the communal boundary). The design is contemporary with a flat roof.
- 2.4.** It is proposed to alter the vehicular entrance to the site to improve sightlines with a new splayed entrance and a new 1.2m high front boundary wall. Each site would be fully serviced and the existing boundary screening would be retained and reinforced where necessary with planting and indigenous trees and hedgerows.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 9 no. conditions. These were generally of a standard type except for conditions 7, 8 and 9.

7. Measures are required to prevent overlooking of adjoining properties from the balcony to the rear of the proposed extension to the north and the south. Details of the measures are to be agreed by the P.A. and installed prior to first occupation. This condition also prohibited the use of roofs as balconies.
8. Final details of external finishes and floor levels to be submitted and agreed with the P.A. prior to commencement of development.
9. The use of the proposed garages to be restricted and the finish and external appearance of the garages to match the dwelling house.

3.2. Planning Authority Reports

3.2.1. Planning Reports

It was noted that although the site is unzoned, it is located within the built-up part of the village and within the 50kph zone, and that as such, backland development would be acceptable in principle. In addition, the proposed development was considered to be appropriate in terms of design, scale, height, private open space provision, access and impact on adjacent Protected Structure. However, given the proximity to the northern and southern boundaries and the relative set back of the

dwelling to the south (25m from the public road), it was considered that appropriate screening should be provided to ensure no overlooking from the proposed first floor balcony. Access arrangements were considered appropriate in the 50kph zone and given the absence of any footpath, this should be conditioned. The objection from the appellant was noted. Permission was recommended subject to conditions.

3.2.1.2 Other Technical Reports

None.

3.3. Prescribed Bodies

Irish Water (26/07/16) – The drawings and specifications provided do not provide IW with sufficient data to make a determination on the development.

3.4. Third Party Observations

Submission from Brendan O’Flaherty of ‘Four Winds’ (21/07/16) which had raised issues of incongruous and overbearing design/scale; overlooking and loss of amenity arising from proposed balcony and consequences for precedent; and haphazard backland development which does not address the reasons for refusal of previous decision by the P.A. (20030262).

4.0 Planning History

- 4.1 **20065089** – planning permission granted in March 2007 for a house to the rear of the existing cottage subject to 13 no. conditions. The site layout plan showed the proposed dwelling sited to the rear of the existing cottage garden (i.e. approx. 35m east of the road frontage). The proposed dwelling was in the form of a single storey dwelling (95sq.m) and of a traditional design. The proposal also included the alteration of the front boundary to provide improved sightlines. The conditions were generally of a standard type apart from Condition 7 which required the entrance to be set back 5 metres from the roadside boundary and the wing walls to be splayed to an angle of 45 degrees. This permission was **extended** in 2012 to **29th March 2017**.
- 4.2 **20030262** – Outline permission for a single dwelling to the rear of the cottage was refused by the P.A. on four grounds. These principally related to haphazard,

backland development, (having regard to the confined configuration), which would result in overdevelopment and injury to visual amenity, and to traffic hazard due to the increased use of the driveway. It was also noted that the access improvements which had been proposed were reliant on lands outside the control of the applicant. The location of the proposed dwelling was at the eastern end of the site (approx. 90m back from the roadside boundary), which is a similar location to that proposed in the current application.

- 4.3 PL26.123212** – outline permission was refused by the Board in 2001 following third party appeal (PA Ref. 20004001) on the grounds of haphazard back land development and means of access. The location of the dwelling was halfway along the site (i.e. approx. 55m back from roadside boundary). The board's decision was based on injury to amenities of the area and of property in the vicinity. The Board also stated that it was not satisfied that the applicant had sufficient legal interest in the land necessary to carry out the improvement works to the entrance. The Board's decision, Inspector's report and site plan are attached to this report.

5.0 Policy Context

5.1. Development Plan

Wexford County Development Plan 2013 - 2019

The site is unzoned. Kilmore Quay is designated as a Smaller Village (3.4.9).

Chapter 17 - Design Guidance - provides general advice on urban design and good design practice for all development, including residential.

18.13.1 House extensions – sets out general requirements for extensions, the most relevant of which are as follows:- the scale or position should not be unduly incongruous with its context; the design and finish may be contemporary; the proposed extension should not have an adverse impact on the amenities of adjoining properties.

18.14 Infill and backland development – The Council will generally facilitate well-designed developments on infill or backland sites, but each case will be considered on its merits. Regard will be had to the amenities of surrounding areas and to the design, which may be contemporary.

18.29.03 - Sightlines – The relevant sightline for Regional Roads is 220m. However, sightlines within the 50kph/60kph zone will be assessed on a site by site basis having regard to local road conditions, the Road Geometry standards and the need to ensure that there is adequate visibility of pedestrians and cyclists using the adjoining road/pavement.

5.2. Natural Heritage Designations

Ballyteigue Burrows SAC - approx. 1km to west.

Ballyteigue Burrows SPA – approx. 1km to west.

Saltee Islands cSAC – within 1km to south-east.

Saltee Islands SPA – approx. 3 km to south.

Tacumshin Lake cSAC – approx. 5km to east.

Tacumshin Lake SPA – approx. 5km to east.

6.0 The Appeal

6.1. Grounds of Appeal

The third party appeal was submitted by Richard Keating on behalf of the owner of Four Winds, Brendan O’Flaherty, which is sited immediately to the south. The main points raised may be summarised as follows:

- Visual impact - Extension – The 2-storey extension, by reason of its scale, height, design and massing relative to that of the vernacular styled dwelling would be visually overbearing and disproportionate in scale and massing. It would therefore be visually incongruous in the streetscape and would be detrimental to the visual amenities of the area and views of a nearby protected structure. It would also be contrary to the design advice in the CDP (17.6.1) as it would read as an alien addition to the vernacular cottage and represent overdevelopment of the site.
- Residential amenity – Extension – the proposed extension would be detrimental to the residential amenities of the neighbouring property by reason of overlooking having regard to the narrow width of the site and to the design

of the extension, incorporating a first floor balcony, and would set an undesirable precedent.

- Haphazard backland development – new dwelling -The proposed site layout, on this confined, narrow and elongated site, would result in haphazard backland development which would be inappropriate on this site and would result in overdevelopment of this restricted site.
- Proposed dwelling fails to overcome previous reasons for refusal – The site layout is generally consistent with that of a previous scheme which had been refused by the P.A. (20030262) and the development of a second house to the rear of the cottage fails to overcome the reasons for refusal of both this decision and that of the Board's refusal (123212) for an alternative layout. It is submitted that the P.A. was precluded from giving favourable consideration to this development under the legal principle of 'Res Judicata', and that the significance of the site history has been sidestepped with no justification for superseding the previous decision by the P.A. in respect of the same site layout.

6.2. Planning Authority Response

6.2.1 The P.A. responded on the 28th September, 2016. It is stated that the main issues are set out in the Area Planner's report. Additional points are made, which generally reiterate and expand upon the points made in the initial report. It is submitted that the design of the proposed extension is consistent with the CDP policy and guidance. It is further considered that the proposal would not have an overbearing impact on the adjoining sites; that the height of the extension would not exceed the height of the ridge; that the proposed floor space for both the extension and the new dwelling is reasonable and that there is good provision for private amenity space.

6.2.2 The following comments were made in respect of the backland type development and the relationship with previous decisions:-

- The application differs from previous applications in that full permission is being applied for and it includes the whole site. Thus the current proposal includes full details of proposed development including matters which had been referred to in the previous reason for refusal.

- Government policy/advice has changed since 2003 in respect of seeking increased densities and efficient use of land in towns and villages.
- The proposed development would satisfy CDP policy 18.14 for infill and backland development in towns and villages.
- It is inevitable that a certain amount of development in villages such as Kilmore Quay will be in the form of backland development. Since 2001, the Board has granted backland development on a site in the vicinity (232257) with a similar access arrangement to that now proposed.

6.3 Response from first party to grounds of appeal

6.3.1 Nicholas Mernagh Architects, on behalf of the applicants, responded to the grounds of appeal on 30th September 2016. The response was mainly in the form of rebuttal of the grounds of appeal. No new material issues were raised. It is confirmed that the applicant is prepared to comply with the condition of the P.A. decision to provide screening to the balcony. It is further stated that whilst the balcony is part of the overall design and form of the remodelled cottage, the applicant would be prepared to redesign this element if required to by the Board. It is also pointed out that the design of both the proposed new dwelling and of the extended cottage incorporates energy efficiency measures such as simple solar architecture, new solar panels, improved insulation and water harvesting.

7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows:-

- Principle of backland development
- Residential amenity
- Visual amenity and impact on Protected Structure

7.2. Principle of backland development

7.2.1 The overall approach to development in villages such as Kilmore Quay is on protection and consolidation of the character of the village (3.4.9 of CDP). The Development Plan sets out a number of criteria which would influence the scale and density of development. These include availability of infrastructure, contribution to

the village form, protection of architectural and environmental qualities and a density of 12 houses per hectare.

- 7.2.2 The density of development would be approx. 10 house/ha, which is within the specified parameters. It is considered that the location of the site on serviced land, within an established built-up village street, means that the development of the site as infill development is generally in accordance with the principle set out in the policies of the Development Plan. However, as noted in 5.1 above, the Plan makes it clear that infill/backland development is only appropriate where suitable sites and site conditions exist, having regard to the impact on the residential amenities of the neighbouring sites (18.14) and that the development should make a positive contribution to the architectural and environmental qualities of the village. These matters will be discussed in 7.3 and 7.4 below.
- 7.2.3 The appellant refers to two decisions which, it is claimed, have created a precedent which would limit the ability of the Board to grant permission. As outlined in Section 4.0 above, the Board (123212) refused outline permission in 2001 for a house on a subdivided site to the rear on the grounds of haphazard backland development. Subsequently, the P.A. in 2003, refused outline permission for a similar development (20030262), albeit with a different site layout. In addition to haphazard backland development, the P.A. also included reasons relating to overdevelopment, adverse impact on visual amenity and to traffic hazard due to the increased use of the shared driveway. These latter issues will be addressed in 7.3, 7.4 and 7.5 below.
- 7.2.4 It is considered that the policy framework influencing the acceptability of backland development has been fundamentally changed in the intervening period since 2001/2003, as increased densities on serviced lands within built-up areas are now actively encouraged. I note that the Inspector in PL26.123212 quoted a section from the Wexford CDP 2000 which stated that “piecemeal and uncoordinated development of backlands, including construction of extra dwellings in former back gardens can result in inappropriate and disorderly development and can have an adverse effect on the residential amenities of adjoining properties”. It was further stated that such development would only be considered where certain criteria were met. The current Development Plan does not contain this policy and, in contrast, seeks to facilitate backland development provided they are well designed, which is in accordance with national policy on residential densities.

7.2.5 It is noted that in line with the change in policy, permission has been granted for backland development both on the subject site and in the vicinity in the interim. The P.A. granted full permission for a house to the rear of the existing cottage on the site (20065089), which was extended until the end of March 2017. This has established the principle of development of a second house on the site. It is further noted that the board granted permission for a backland development of 4 houses to the rear of a house in the vicinity of the site (PL26.232257) in 2009. Thus it is clear that there have been changes in circumstances, both in policy terms and on the ground, which are material considerations in the current application/appeal.

7.3. Residential amenity

7.3.1 The site is very narrow, (approx. 14m), but is also exceptionally long (over 144m). The existing cottage is very small and is located very close to the public road, with the majority of the site located behind the rear building line. Hence it is considered that there is adequate space on the site to provide for two dwelling units with generous areas of private amenity space for the enjoyment of the future occupants of both dwellings, as well as the provision of a substantial extension to the original cottage. It is noted that the property to the north is an established Garda Station building with a substantial hedgerow along the common boundary, and the eastern end of the site bounds agricultural fields to the north and east. Thus the only residential properties bounding the site are to the south and south east.

7.3.2 The majority of the southern boundary is with the appellant's property, which is a large L-shaped single-storey bungalow on a very substantial site. The dwelling is well set back from the roadside and from the boundary with the appeal site. The front of the appellant's house is approx. 25m from the public road, which is several metres behind the proposed rear building line of the extended cottage. The side elevation of the neighbouring house is estimated to be at least 7m from the common boundary, which is well screened by means of substantial hedging and trees, which give way to a concrete block wall (2.1m) further to the east. There are some out-buildings located adjacent to the site of the proposed pair of domestic garages. It is considered that the design of the proposed extension is such that it is unlikely to result in significant overlooking of the property to the south. Notwithstanding this, I would agree with the condition attached to the P.A. decision requiring screening to the north and south.

7.3.3 The proposed additional dwelling is located at the eastern end of the site. This part of the southern boundary is with a triangular section of the rear garden of the adjoining bungalow which is some 50m behind the rear wall of the bungalow. The proposed private amenity space abuts the rear garden of a further dwelling house to the south of the appellant's property, which is an even more substantial site. Given that the proposed dwelling is single storey and is sited well behind the established rear building line, it is considered that it would not give rise to any overlooking or overshadowing and would not unduly affect the residential amenities of the neighbouring properties.

7.4. Visual amenity and impact on protected structure

7.4.1 The proposed dwelling and the proposed extension each introduce a contemporary design approach into the site. This is considered to be appropriate in principle. In terms of the proposed dwelling, it is considered that the design is acceptable and would enhance the visual amenities of the area. The proposed extension to the cottage, however, is considered to be inappropriate to its context by reason of its relative height, scale and relationship with the original cottage. It is considered that any extension to an original building, particularly a vernacular cottage such as this, which has a strong visual presence on the street and makes a positive contribution to the streetscape, should not dominate the original building. This is particularly pertinent in the current case, as the building immediately to the north is a Protected Structure and as the proposed extension would be highly visible from the street.

7.4.2 It is considered that the height, scale, bulk and mass of the proposed extension, as currently formulated, would detract from the streetscape and from the setting of the Protected Structure. The absence of a light-weight (e.g. glazed) link or void between the extension and the cottage means that the 2-storey flat roof structure appears to collide with the more traditional sloping roof. This is particularly evident when viewed from the south and is exacerbated by the projecting footprint which extends beyond the side building line of the cottage. It is considered that the junction is less abrupt when viewed from the north as a recessed element is introduced which reduces the mass and the bulk. The recess is only 2.1m wide, however, and it cuts into the slope of the adjoining roof. It is considered that a wider recess would achieve a greater impact and would also reduce the impact on the setting of the Protected Structure.

7.4.3 It is acknowledged that the existing cottage is extremely limited in terms of floor space and that the floor area of the extended cottage would still be relatively modest. However, it should be noted that the site is large in terms of area and is not constrained in terms of length. It is, therefore, considered that there is plenty of scope to provide an extension which would be less visually obtrusive and respect the character of the existing cottage and of the streetscape as well as the setting of the Protected Structure. Should the Board be minded to grant permission, it is considered that the design issues discussed above could be addressed by means of an appropriate condition.

7.5 Traffic hazard

7.5.1 The site is located on a regional road but is within the built-up area of the village and the 50km an hour zone. Thus the availability of adequate sightlines is dependent on local site and road conditions. There are currently two entrance to the site, one on either side of the cottage. The proposal to construct a 1.2m high wall, (with a pedestrian gate), would remove the southern entrance and would allow for the provision of an appropriately designed splayed entrance on the northern side. The existing sightlines to the south from the southern entrance are extremely poor and the closure of this entrance would be a positive development. The existing wall and pillar on the northern boundary restrict sightlines to the north. However, this would be improved by the provision of an appropriately designed splayed entrance. It is considered that should the Board be minded to grant permission, a condition to this effect should be attached to any such permission.

7.6 Appropriate Assessment

7.6.1 The site is located approximately 1km from two Natura 2000 sites, namely, Ballyteigue Burrows cSAC and Ballyteigue Burrows SPA (both approx. 1km to west). It is also located within 5km of four other Natura 2000 sites, namely, Saltee Islands cSAC, Saltee Islands SPA, Tacumshin Lake cSAC and Tacumshin Lake SPA. Given the distances involved, and as the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

- 8.1. It is recommended that planning permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Wexford County Development Plan 2013-2019, to the existing pattern of development in this central village location, and to the design, layout and limited scale of the proposed development, 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, the setting of the adjacent Protected Structure or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would, therefore, 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, 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 proposed development shall be amended as follows:
 - (a) The first floor balcony on the eastern elevation of the extension to the cottage shall be provided with appropriate screening measures to ensure that there would be no overlooking of adjoining properties.
 - (b) The design of the extension shall be altered such that the western wall of the flat roofed structure is visually separated from the sloping roof of the

cottage by means of either a light-weight link or void and that no part of the extension projects to the north or south of the established building line of the cottage.

The revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of the architectural heritage and visual amenities of the area.

3. No access shall be permitted to the flat roofs save for maintenance.

Reason: In the interest of protection of residential amenity.

4. Vehicular access to the site shall be restricted to the northern entrance and the proposed wall to the road frontage shall be constructed prior to first occupation of the extended cottage. The entrance gate shall be set back a distance of not less than 5 metres from the boundary with the adjoining road and the splayed at an angle of 45 degrees and designed such that visibility is not obstructed in either direction.

Reason: In the interests of road safety.

5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. The site shall be landscaped in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following
 - (a) The mature hedgerows and trees along the boundaries of the site shall be retained and reinforced by the planting of indigenous trees and shrubs.

Reason: In order to screen the development and assimilate it into the surrounding townscape and in the interest of visual amenity.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Mary Kennelly
Planning Inspector
16th January 2017