



An  
Bord  
Pleanála

## Inspector's Report PL27.247385

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<b>Development</b>	Retention of alterations to outbuilding, associated works and conversion to habitable use and extension.
<b>Location</b>	2 Bridge House, Aughrim, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	16/464
<b>Applicant</b>	Patrick Byrne
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First Party against conditions
<b>Appellant</b>	Patrick Byrne
<b>Observers</b>	none
<b>Date of Site Inspection</b>	2/2/17
<b>Inspector</b>	Siobhan Carroll

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.0404 hectares, is located in the town centre of Aughrim, Co. Wicklow. The site is located to the east of Aughrim Bridge and Aughrim River forms the northern site boundary.
- 1.2. The site is occupied by a semi-detached dormer cottage which adjoins the public footpath. The original property has been extended to the rear with outbuildings converted for domestic use.

## 2.0 Proposed Development

- 2.1. Retention of alterations to outbuilding, associated works and conversion of same to habitable place, permission for single storey extension.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was granted subject to 6 no. conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- Following the submission of unsolicited further information the Planning Authority considered having regard to the revised plans submitted on the 19<sup>th</sup> of July 2016 showing the kitchen facilities removed from the outbuilding that the proposal would be acceptable as when implemented the converted unit without kitchen facilities could not be used as a separate unit. The report recommended the attachment of conditions to ensure that the original dwelling and converted outbuilding are maintained as a single unit.

#### 3.2.2. External Reports

Irish Water – No objection

Fisheries Ireland – No objection

### 3.3. Third Party Observations

The Planning Authority did not receive any observations or submissions in relation to the application.

### 4.0 Planning History

Reg. Ref. 15/1151– Permission was refused for the retention of alterations to the existing outbuilding and associated works and conversion of same to a habitable building located to the rear.

Reg. Ref. 13/8091 – Permission was granted for alterations to existing building including change of use from commercial to domestic use of one section of the building.

### 5.0 Policy Context

#### 5.1. Development Plan

##### Wicklow County Development Plan 2016-2022

- **HD9** - In areas zoned / designated 'existing residential', house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see Objective HD11 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.
- Chapter 12 refers to Implementation and Monitoring

##### Aughrim Town Plan 2016-2022

- The site is zoned 'RE' existing residential

## 5.2. Wicklow County Council Development Contribution Scheme 2015

# 6.0 The Appeal

## 6.1. Grounds of Appeal

A first party appeal has been lodged by the applicant Mr Patrick Byrne on the 7<sup>th</sup> of October 2017. The first party appeal is made against three conditions of the permission granted under Reg. Ref. 16/464 by Wicklow Co. Council.

- Condition no. 2 requires the payment of €2,075 as a contribution in respect of public infrastructure and facilities benefiting development in the area. The appellant states that part of the floor area being charged €2,075 (50.1sq m) was already granted permission for domestic use under Reg. Ref. 13/8091.
- The calculation of the contribution includes a floor area of 20.9sq m from a previous full habitable permission granted under Reg. Ref. 13/8091. It is stated that the gross floor area in the property is the same amount as it was prior to the purchase of it in 2012.
- The breakdown of the calculation as provided by Wicklow County Council is;  
Area of Extension — 55.5sq m (5.4sq m new and 50.1sq m under previous permission 13/8091)  
Previous Extension — 20sq m (replacement/rebuilding of room 13/8091)  
Allowance — 40sq m  
Charge — 36.4sq m × €57 = €2,075
- The appellant cites 4.3 of the Wicklow County Development Contribution Scheme which states;  
*“Residential extensions that do not increase the overall floor area of the house over 100m<sup>2</sup> in urban areas, and over 150m<sup>2</sup> in rural areas, will be exempt from contributions.”*
- Reg. Ref. 16/464 is a retention application which excludes exemption. The appellant states that in the case of his property the floor area and services

were already in place and no new area was provided which affected the public infrastructure and facilities benefiting development in the area.

- It is stated that the only new floor area provided in all the applications (Reg. Ref. 13/8091, Reg. Ref. 15/1151 and Reg. Ref. 16/464) is a bathroom with a floor area of 5.4sq m.
- The contribution is considered unreasonable, it cannot be made retrospectively to previous permissions and it is considered that it has been miss-applied.
- Condition no. 3 requires that the applicant shall lodge a security of €1,000 with the Council for the satisfactory compliance with the conditions. The appellant states that this requires a considerable amount of additional unnecessary expense. It is considered that the bond would seem more appropriate for a large commercial development rather than a small ground floor area of a dwelling.
- The appellant requests that condition no. 3 be removed.
- Condition no. 4 (a) requires that the original dwelling, converted outbuilding and proposed extension shall be jointly occupied as a single dwelling and shall not be sold, let or otherwise transferred or conveyed save as part of the dwelling. The appellant has no objection to this requirement of condition no. 4.
- The appellant is appealing condition 4(b)(i) which states;  
*(b) Within six (6) months from the date of this permission:*
  - (i) The internal alterations as detailed on the layout plan submitted on the 19<sup>th</sup> of July 2016, including the removal of all kitchen facilities from the converted outbuilding and the provision of a direct access from the utility room to the converted outbuilding shall be completed in full.*
- The appellant considers that the requirement to remove “all kitchen facilities” from the outhouse section is unreasonable. The area is a kitchenette not a full kitchen. It contains limited appliances. There is no dishwasher, washing machine, dryer or fridge freezer. The area has been in use as a small service

area as part of the permitted private domestic use granted under Reg. Ref. 13/8091.

- The timescale of within six months is considered very restrictive and the appellant states that further financial outlay is required to carry out the works under Reg. Ref. 16/464. It is requested that the Board remove the requirements under condition 4(b)(i).

## 6.2. Planning Authority Response

- None received

## 7.0 Assessment

7.1. The subject appeal is a first party appeal against three conditions of the grant of permission under Reg. Ref. 16/464. I consider, having regard to the nature of the conditions, that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted and the appeal should be determined under the provisions of Section 139 of the Planning & Development Act, 2000, as amended.

7.2. Condition no. 2 states;

2. *The developer shall pay the sum of €2,075 to the Planning Authority as a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority, as follows:*
  - a. *€1,761 shall be paid by the developer within three months from the date of this permission.*
  - b. *The outstanding balance of €314 shall be paid **before development commences** on the proposed extension.*

*The contribution sought is in accordance with Wicklow County Council's Development Contribution Scheme for the area in which the site is located and Section 48(1) of the Planning and Development Act 2000.*

*Where the contribution remains unpaid the monies payable shall be updated in accordance with the Wholesale Price Index as published by the Central*

*Statistics Office on the 1<sup>st</sup> January of each year following the date of the Final Grant.*

*REASON: The public infrastructure and facilities included in the Development Contribution Scheme will facilitate the development and it is considered reasonable that the developer should contribute towards the cost thereof.*

- 7.3. The appellant considers that the development contribution has not be properly applied and that as no new development has occurred aside from a bathroom with a floor area of 5.4sq m that contribution is excessive.
- 7.4. The contribution levied under condition no. 2 was done in accordance with the provisions of the Wicklow County Council – Development Contribution Scheme 2015. Section 5.0 refers to Exemptions and Section 5.2 states that no exemptions/reductions will be allowed for retention permissions. The subject application is a retention permission and therefore is not subject to any exemptions.
- 7.5. Section 4.3 of the Scheme refers to residential extensions. In relation to residential extensions to properties over 100sq m it states;

*“Residential extensions where the floor area is already over 100sq m in urban areas, and over 150sq m in rural areas, will be calculated on the floor area of the extension, with a waiver given for the first 40sq m.*

*For clarification, the waiver for the first 40sq m will only apply in full where the dwelling has not been previously extended, with a reduced waiver allowed, where the dwelling has been previously extended by less than 40sq m.”*

- 7.6. The Planner’s report contains the calculation of the development contribution. This indicates the floor area of the existing dwelling of 137sq m and the floor area of the subject converted outbuilding of 50sq m for retention with a proposed extension of 5.5sq m. Therefore, the floor area which is the subject of this application is 55.5sq m being made up of an area of 50sq m for retention and a 5sq m extension. As the floor area of the existing dwelling is over 100sq m and the property is within an urban area the contribution is calculated on the basis of the floor area of the extension with a waiver of 40sq m provided for the first 40sq m. As the property was previously extended by 20.9sq m (this relates Reg. Ref. Reg. Ref. 13/8091) this reduces the floor area where a waiver is provided to 19.1sq m.

7.7. Therefore, the floor area of the property which is the subject of this application less the floor area where a waiver is provided amounts to 55.5sq m less 19.1sq m which is 36.4sq m. This is the floor area which the Planning Authority based the contribution calculation - 36.4sq m x €57 = €2,075.

7.8. Therefore, having regard to the nature of the proposal i.e. a retention permission with a 5.5sq m extension and the details set out above, I consider that the contribution of €2,075 as levied by the Planning Authority is in accordance with the provisions of the Development Contribution Scheme in respect of residential extensions.

7.9. Condition no. 3 states;

***“Prior to the commencement of any development, the applicant shall lodge security with the Council for the satisfactory compliance with the conditions of this permission. This security is required by the Council for application at its absolute discretion if such conditions are not duly complied with to its satisfaction. In order to secure the return of this security, the applicant shall, on the completion of the development, submit a report from a suitably qualified professional (with professional indemnity insurance), certifying and showing through the submission of necessary documentation and photographs if appropriate, that all conditions have been fully complied with. The security shall be given by a lodgement with the Council of the sum of €1,000.***

*REASON: To ensure satisfactory compliance with the conditions of this permission.”*

7.10. The appellant requests that the Board omit condition no. 3 on the basis that it requires the submission of considerable sum i.e. €1,000 which they argue is an unnecessary expense. It is stated in the appeal that a bond of that nature is more appropriate for a large commercial development rather than a small scale residential development.

7.11. Chapter 12 of the Wicklow County Development Plan 2016-2022 refers to Implementation and Monitoring. Section 12.4 refers to development management and enforcement and states *“the planning authority will continue the practice of granting planning permission with the inclusion of conditions requiring levies and/or bonds to be paid to ensure compliance with the conditions of the permission.”*



7.12. The bond as stated in the reason for the condition has been attached by the Planning Authority to ensure the satisfactory compliance with the conditions of the permission. The application relates to development proposed for retention and a number of the conditions of the permission require works to be carried out specifically condition no. 1 and condition no. 4 which require that the internal alterations as indicated on the layout plan submitted on the 19<sup>th</sup> of July 2016 be carried out. The requirement that the internal alterations are carried out relate to the use of the subject area the converted outbuilding as part of main dwelling and not as a separate dwelling unit. As detailed in the Planner's report the revised plans submitted on the 19<sup>th</sup> of July 2016 showing the kitchen facilities removed from the outbuilding were considered acceptable on the basis that when implemented the converted unit without kitchen facilities could not be used as a separate unit. The payment of a bond of €1,000 provides the Planning Authority with a means to ensure that the conditions of the permission are complied with and having regard to the nature of the application i.e. retention of development, I consider that it is appropriate to attach condition no. 3. Furthermore, I note that subject to the satisfactory compliance with the conditions of the permission the security will be returned to the applicant.

7.13. Condition no. 4 states;

*"4.*

- a. The original dwelling, converted outbuilding and proposed extension shall be jointly occupied as a single housing unit and shall not be sold, let or otherwise transferred or conveyed save as part of the dwelling.*
- b. Within six (6) months from the date of this permission:*
  - i. The internal alterations as detailed on the layout plan submitted on the 19<sup>th</sup> of July 2016, including the removal of all kitchen facilities from the converted outbuilding and the provision of a direct access from the utility room to the converted outbuilding shall be completed in full.*
  - ii. Written certification and a full photographic survey of the work (from an Architect or similar suitably qualified professional with professional indemnity insurance) confirming that the works required under*

*condition 4(a) have been completed in full, shall be submitted to the Planning Authority.*

*Reason: To restrict the use of this extension in the interests of residential amenity.”*

7.14. The appellant is appealing part (b)i of condition no. 4. This specifically relates to the requirement that the kitchen facilities within the converted outbuilding be removed and the provision of a direct access from the utility room to the converted outbuilding within six months of the date of the permission. The reason accompanying condition no. 4 states that the condition was attached to restrict the use of the extension in the interest of residential amenity. Part (a) of condition no. 4 specifies that the original dwelling, converted outbuilding and proposed extension shall be jointly occupied as a single housing unit. Part (b)(i) of condition 4 which requires the removal of the kitchen facilities within the converted outbuilding would mean that the converted outbuilding would not be suitable for use as a separate dwelling unit. The provision of a direct access from the utility room to the converted outbuilding would also ensure that the converted outbuilding would be integrated into the main dwelling in terms of the overall layout. Having regard to nature of the proposed development for retention and the requirement of the Planning Authority to ensure that the main dwelling and subject converted outbuilding are jointly occupied as a single dwelling, I consider that it is appropriate that condition no. 4 (b) (i) is attached.

## **8.0 Recommendation**

8.1. Having regard to the nature of the conditions which are the subject of the appeal and based on the reasons and considerations set out below, I am satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and recommend that the said Council be directed under subsection (1) of section 139 of the Planning and Development Act, 2000 to ATTACH Condition Numbers 2, 3 & 4(b)i.

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the development proposed for retention and to the provisions of the County Wicklow Development Contribution Scheme 2015 the Board considered that the terms of the scheme had been properly applied.

Accordingly, it was considered that condition number 2 as attached by the planning authority was warranted.

Having regard to the nature of the development proposed for retention and the requirement under condition numbers 1 and 4 of the permission for internal alterations to be carried out involving the removal of kitchen facilities from the converted outbuilding and the provision of a direct access from the utility room to the converted outbuilding the Board considered that the requirements of condition number 3 for the applicant to lodge a security with the Council of the sum of €1,000 as attached by the planning authority was warranted in the interests of the satisfactory compliance with the conditions of the permission.

Having regard to the nature of the development proposed for retention, the Board considered that a condition requiring the removal of the kitchen facilities from the converted outbuilding and the provision of a direct access from the utility room to the converted outbuilding to ensure the restricted use of the extension as part of the main dwelling within six months of the grant of permission was warranted.

Accordingly, the Board considered that the planning authority condition number 4(b)i should be attached.

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Siobhan Carroll  
Planning Inspector

9<sup>th</sup> February 2017