



An
Bord
Pleanála

Inspector's Report PL15.247506.

Development	Construct a Garden Room / Viewing Area
Location	Hamlinstown, Monasterboice, Drogheda, Co. Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	16/463
Applicant(s)	Martin & Ruth Murray
Type of Application	Planning Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party -vs- Condition No.3
Appellant(s)	Martin & Ruth Murray
Observer(s)	Anthony & Bernadette Gaynor
Date of Site Inspection	21 / 12 / 2016
Inspector	L. W. Howard

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1.0 Site Location and Description

- 1.1. The stated c.0.22ha, irregularly shaped application site is located within a rural area some 5km north of Drogheda, County Louth.
- 1.2. Located on an elevated plateau overlooking the surrounding countryside, the primary land use locally may be described as agricultural.
- 1.3. The proposed “garden room / viewing area” development is located to the north eastern side of the existing dormer dwellinghouse (**Reg.Ref,No.13/226**) on the application site. A single domestic dwellinghouse exists on the adjoining property (understood occupied by the 3rd party observers – A. & B. Gaynor), immediately to the north of the application site.
- 1.4. Vehicular access is via a ‘right of way’ off the county road, southward along the western lateral boundary of the 3rd party observer property.

2.0 Proposed Development

- 2.1. Permission is being sought to erect a “garden room / viewing area”, to be located to the north-eastern side of the existing dormer dwellinghouse on the application site.
- 2.2. The proposed development comprises a sloping roof split level design, with a floor area of 34m² and a ridge height of 4.7m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Planning permission granted, subject to 4no. Conditions.
- 3.1.2. Condition No.3 is relevant in the context of the appeal. Condition No.3 requires that the proposed development be lowered onsite by 1m, and accordingly that finished floor levels be correspondingly lowered to provide for this amendment.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The key issues considered as follows :

- Having regard to the limited scale and bulk of the proposed development, the “garden room / viewing area” is domestic in nature and scale, and compliant with Policy SS61.
- Having regard –
 - to the revised plans submitted as Further Information (F.I.), correcting the discrepancy in the elevation drawings as submitted,
 - to the 3rd party submission lodged, and
 - to the proximity to the party boundary,
 the Planning Authority considered it appropriate that the proposed building be lowered on site by 1m, in order to protect the amenity of the neighbouring property to the north.
 This to be achieved by way of Condition requiring the finished floor levels be lowered by 1m.
- Consequent of the initial public notice as a “garden shed”, and F.I. consultation, the proposed development was re-advertised as a “garden room / viewing area”.
- An appropriate assessment considered not necessary.
- Adequate separation distances achieved from the on-site wastewater treatment system.
- Application site is not located within the area of known fluvial / pluvial flooding, as indicated by the OPW at www.floodmaps.ie

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A single 3rd Party submission was received, objecting for the following reasons –

- the mass and layout of the proposed development would be out of character with properties in the vicinity.

- the misleading descriptions of the proposed development.
- Acknowledging the applicant's need for privacy, a wall height of 2400mm would be more realistic for the intended use.

4.0 Planning History

Relevant site planning history includes :

- 13/226** Planning permission granted to T. Mulroy for –
- Retention of conversion of attic space in existing dwelling house to an en-suite bedroom, hot press, store and study along with the installation of three number velux roof windows to the rear of dwelling, and
 - the installation of a new window in the South gable wall at first floor level,

- 05/1543** Planning permission granted to T. Mulroy for a Dwellinghouse.

- 96/58** Planning permission refused to K. Geraghty for a dwellinghouse, for the following reasons -
- No backland development, and
 - Threat to traffic safety

5.0 Policy Context

5.1. Development Plan

Louth County Development Plan 2015-2021

S2.19 Rural Housing Policy

The application site is located within Development Control Zone 2 :
 “To protect the scenic quality of the landscape and facilitated development required to sustain the existing rural community”.

S2.19.14 Extensions to Dwellings

- Extensions should complement the original building, where applicable harmonise with adjoining properties and not have an undue adverse impact on visual amenities locally.
- Extensions out of character, proportion or not incidental to the main dwelling will not be considered favourably.
- Size should be proportional to, and in keeping with the character of the existing structure.

SS2.19.16 Domestic Garages / Outbuildings

Provided that a subservient and proportional relationship between the dwelling and to ancillary outbuilding is maintained, the landscape will normally be able to accommodate garage / outbuilding development without detriment to visual amenity.

Policy SS61 To accommodate new detached ... domestic outbuildings in the countryside only where the visual impact of the resultant additional building on the site is one where –

- design is coherent and the form is appropriate to the context of the existing dwelling
- the structure is separate from the house and sited in such a manner as to reduce visual impact
- the structure is visually subservient re. size, scale and bulk to the dwelling that it will serve
- the structure does not result in a poorly proportioned or intrusive form of building in the landscape
- the structure does not undermine the dominance of the landscape through an unacceptable cumulative level of domestic related development at the site
- the structure is used for purposes incidental to the enjoyment of the dwelling, and not for any other purposes.

S2.20 Rural Housing Design and Siting Criteria

Specific considerations include - Site-Sensitive Design (2.20.1); Build into the

Landscape (2.20.2); Build, Shape and Plant to create Further Shelter (2.20.3); Presence in the Landscape (2.20.4); Proportions (2.20.5); Materials (2.20.6); Boundaries (2.20.7) and Details (2.20.8).

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a first party appeal against Condition No.3 of the Planning Authority's decision.

6.1.2. The detailed appeal submission may be summarised as follows :

- The proposed garden shed and garden room do not detract from the visual amenity of the area in which it is situated.
- Existing overlooking has compromised the use and enjoyment of their garden by the applicants. The introduction of the proposed development simply replaces and reinstates the privacy which existed previously.
- No adverse impact will result on the adjoining residential amenities, particularly by way of :
 - Natural light reduction, and
 - Obstruction of views.
- Adequate visibility will be provided to the adjoining property owner, as the ridge level of the proposed development is 162.395mm, which is only 145mm higher than the FFL of the neighbouring L-shaped bungalow.
- The applicants do not consider that visual amenity forms grounds for the introduction by the Planning Authority of Condition No.3. Emphasise that the application of Condition No.3 is therefore inappropriate.
- The -1m reduction required under Condition No.3 is wholly inappropriate and renders the proposed development unworkable and unrealistic for the applicants, as the usability of the proposed development is severely impaired.

- The proposed development is consistent with the proper planning and sustainable development of the area.
- Request An Bord Pleanála remove Condition No. 3 and grant permission for the proposed development.

6.2. Planning Authority Response

- 6.2.1. Condition No.3 is considered appropriate and reasonable in the interest of residential amenity Observations.

6.3. Observation

6.3.1. Site Location / Topography

- In 1996, the Observers were refused planning permission for a single storey bungalow on the application site and on the same footprint. The ridge height of this refused bungalow, was the gutter height of the applicant's dormer bungalow. On that basis, natural light into the Observers garden would not have been restricted, nor their visual amenity obstructed.
- The existing dormer bungalow on the application site was subsequently granted retention permission, on the application site, 2m higher than the stated single storey development, initially granted planning permission. Construction of this house was completed, prior to its sale to the applicants.
- At the stated 3875mm above the current garden level, the proposed development will be 2115mm below the ridge height of the applicant's existing dormer bungalow, and 1m above the evergreen tree in the applicant's garden. This will significantly impact the Observers' visual amenity.
- Distinguish further that at a maximum height of 2875mm, as per the planning permission granted, the applicant's garden would be completely blocked from view from the Observers property.

6.3.2. Impact of Condition No.3 on the proposed garden Shed

- As lowering the FFL would detrimentally impact the applicant's use of both the shed and garden room / viewing area, the Observers suggest the south side of the roof currently 3875mm above the garden level be lowered by 1m.

- Emphasise that lowering the overall impact of the roof, would still provide a usable internal height.

6.3.3. Impact on Adjoining Property

- Confirm that the evergreen trees referenced by the applicants in the appeal, have not always been maintained at their present height. Further, this was certainly not the case at the time the dormer bungalow was granted planning permission.
- Prior to construction of the dormer bungalow, the trees were maintained at a height of 2.5m. This provided the Observers with an unobstructed view of the countryside from their kitchen window.
- A 2.5m height would block all view of the applicant's garden from the Observers kitchen window.
- Over recent years it has become increasingly difficult for the Observers to maintain the trees at a lower height. The trees have also become unstable, with several lost in high winds.
- Consequently, the Observers removed the evergreen trees along the common boundary with the applicant's, and replaced them with fast growing Laurel bushes. Confirm this was communicated to the applicant's.
- The fast growing Laurel bushes –
 - will quickly reinstate the privacy between the two properties, and
 - will more easily be maintained at a lower height by the Observers.

6.4. Further Responses to Observation

6.4.1. Applicants Response

The detailed response may be summarised as follows :

- The Observer has misinterpreted the floor level at which the garden room / viewing area would be constructed. The Observer appears to believe the proposed floor level will be level with the top of the existing earth bank, and not level with the applicants adjoining garden, which is approximately 1m lower.

Consequently, the Observer believes the ridge height of the proposed development to be approximately 1m higher than that proposed by the applicant.

- The level proposed is actually at the existing garden level, and not at the level of the bank of soil which the Observer believes the proposed garden shed floor level would be at.
- The proposed garden shed and garden room does not detract from the visual amenity of the area. This is in compliance with Policy SS61 of the Louth County Development Plan 2015-2021.
- The applicant's privacy was seriously reduced as a result of the Observers removal of the screen hedging. Whilst not restoring the original level of privacy, the proposed development will provide some screening and privacy, whilst providing for the leisure needs and requirements of the applicants.
- No adverse impact on the natural light or views enjoyed by adjoining properties will result. Nor will there be significant injury to the amenities of the area.
- The -1m reduction required under Condition No.3 is inappropriate, renders the proposed development unworkable and unrealistic, as the usability is severely impaired.

6.4.2. **Planning Authority Response**

None

7.0 **Assessment**

This is a first party appeal against Condition No.3 of the grant of permission under **Reg.Ref.No.16/463**. Under Section 139 of the Planning and Development Act, 2000 (as amended), the Board has the discretion to consider this condition in isolation from the remainder of the application. I consider, having regard to the nature of Condition No.3, 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.

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. Having regard to Condition No.3, I consider the relevant planning issues relate to :

- Site Location and Topography
- Visual Amenity Impact
- Residential Amenity Impact
- Appropriate Assessment

7.2. Site Location and Topography

7.2.1. At the time of site visit, and having regard to the respective arguments made by the Observers, the Planning Authority in deciding to include Condition No.3, and the applicants both in their 1st Party Appeal against Condition No.3 and in their response submission to the Observation, I paid particular attention to the topographical contextualisation of the application site, with that of the Observers adjacent and to the north.

7.2.2. I confirm that with respect to site levels, there does exist a step up of approximately 1m from the applicant's domestic garden level at which the proposed, modest garden room / viewing room structure is proposed to be located, onto the existing earth bank along the application sites northern boundary shared with the Observers, adjacent and to the north. A gap left by the removal of a row of mature evergreen trees, was evident along the top of the earth bank. Similarly, noticeable, was the row of Laurel bushes subsequently planted by the Observers. Noticeable also on top of the earth bank was an understood wooden measuring rod. I understand that this measuring rod is the one referenced by the applicant's in their response submission to the Observation. I understand further that this is the same measuring rod shown by the Observers in their Observation at Fig.1., where they use the top of the rod to reference a horizontal level of "2.875m above the appellant's garden level", and at Fig.3. where the wooden rod is shown placed upright at the boundary fence with the application site, and clearly at the top of the earth bank between the two properties.

7.2.3. Having regard to all of the information on the appeal file, and to my observations at the time of site visit, I am inclined to agree with the applicant's arguments in response to the Observation as reasonable, that the Observers appear to have

misinterpreted the floor level at which the garden room / viewing area would be constructed. By placing the wooden measuring rod on top of the earth bank as shown particularly at Fig.3., the Observers appear mistaken that the proposed floor level will be level with the top of the existing earth bank, and not level with the applicant's adjoining grassed garden, which is approximately at a level 1m lower.

- 7.2.4. On this basis, it would appear that the Observers are unfortunately of the belief that the ridge height of the proposed development is approximately 1m higher than that actually proposed by the applicant. I share the logical deduction made by the applicants in this regard, as set out in their response submission.
- 7.2.5. Effectively therefore, I believe the level proposed by the applicants is actually at the existing garden level, and not at the level of the earth bank which the Observer appears to believe the proposed garden shed floor level would be at.
- 7.2.6. Accordingly, I agree with the applicant's conclusion that if planning permission is granted for the garden room / viewing area with a ridge level at 3.875m, as indeed applied for, the ridge level will only be at the annotated level of 2.875m as shown in the Observation at Fig.1., and as such would have no disproportionate impact on the amenities currently enjoyed by the Observers. Effectively, I note this is the height requested as their preference, by the Observers in their Observation and which would block from view from the Observers property, the applicants domestic garden only and not the open landscape beyond.
- 7.2.7. Having regard to all of the above, I conclude as reasonable that there in fact is no need for Condition No.3 at all, because the existing garden level is 1m below the top of the earth bank, effectively achieving precisely the purpose of Condition No.3.
- 7.2.8. I accordingly, I have no objection to the omission of Condition No.3.

7.3. Visual Amenity Impact

- 7.3.1. Having regard to the potential for negative visual amenity impact on the rural character of the Development Control Zone 2, I note that no designated Scenic Views or Viewing Points exist in the vicinity of the application site at Hamlinstown, Monasterboice. Certainly, the views enjoyed by the applicants and by the Observers from their respective properties, are not protected.

- 7.3.2. The application site is screened from view from the local rural road network, by the well-established Observers property adjacent, to the north, as well as by mature trees and hedge planting.
- 7.3.3. Having regard to the modest scale and bulk of the proposed development, I am satisfied that it is domestic in scale and nature, and therefore compliant with Policy SS61 as set out at in the Louth County Development Plan 2015-2021.
- 7.3.4. Accordingly, I believe no disproportional negative visual impact will result locally, consequent of the proposed development. Having regard to the discussion above, I have no objection to the omission of Condition No.3.

7.4. Residential Amenity Impact

- 7.4.1. Having regard to the proposed location with floor level at garden level on the application site, the site topography, the physical dimensions and height of the proposed development, orientation, screening, design and to separation distances to nearest dwellings, no disproportionate negative impact on the residential amenities of dwellinghouse in the vicinity will result.
- 7.4.2. Accordingly, I have no objection to the omission of Condition No.3.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a rural environment, and to the separation distance and absence of a clear direct pathway to any European site, 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.

8.0 Recommendation

- 8.1. I recommend that the Board, based on the reasons and considerations set out below, directs the said Council under Section 139 of the Planning and Development Act, 2000 to REMOVE Condition No.3.

9.0 Reasons and Considerations

- 9.1. Having regard to the proposed location with floor level at garden level on the application site, the site topography, the physical dimensions and height of the proposed development, orientation and outlook, screening, design and to separation distances to nearest dwellings, and to the pattern of development in the vicinity, it is considered that the requirement of Condition No.3 that the proposed development be lowered by 1m, and accordingly that finished floor levels be correspondingly lowered, is not necessary

L.W. Howard

Planning Inspector

26th January 2017