



An  
Bord  
Pleanála

## Inspector's Report PL27.247610

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<b>Development</b>	Refurbishment and extensions to an existing mews dwelling
<b>Location</b>	Hoeyfield Mews, Rear of Hoeyfield, 38 Putland Road, Bray, Co. Wicklow County Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	16993
<b>Applicant(s)</b>	Kevin Kenefick
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Kevin Kenefick
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	15 <sup>th</sup> February 2017
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site is located in the southern suburbs of Bray, on Putland Road between Meath Road and the Dart line, close to the Dart line and the coast. Putland Road leads eastwards from Vevay Road to Strand Road, and Meath Road runs northwards, parallel to Strand Road (and the Dart line). It comprises a 2-storey detached house on an L-shaped site with a mews dwelling in the rear garden. There is a detached bungalow immediately to the east, the rear garden of which abuts the appeal site. To the west, the appeal site bounds 3 separate properties, all single-storey, and the northern (rear) boundary bounds a further residential property with a detached bungalow and a long rear garden.
- 1.2.** The site has a stated area of 0.0611ha. The main house is 2-storeys and occupies the south-eastern section. The mews dwelling abuts the south-western boundary and is within an enclosed part of the garden, bounded by a 2m high timber fence. It is situated approx. 5.34m from the rear of the main dwelling and 5.48m from the north-western rear boundary. The structure consists of a narrow building with a mezzanine floor area and a lean-to extension, which is the element that abuts the SW boundary. It has a pitched roof with a gable end. There are two roof lights, one on each of the east and west facing slopes, and windows (GF) on the north, south and east elevations. The ridge height is given as 4.294m and the eaves height of the lean-to as 2.095m.
- 1.3.** The accommodation at present comprises one bedroom, a kitchen and a living room, and a 'wash room', all on the ground floor. The mezzanine level comprises an area within the roofspace which is above the kitchen. It is accessed by means of a ladder and is screened by means of a curtain.

## **2.0 Proposed Development**

- 2.1.** It is proposed to demolish the existing main roof and lean-to roof and to erect a second floor with a new mansard roof over the extended structure. It is also proposed to erect 2 no. single storey extensions, one to the north (5.3m<sup>2</sup>) and one to the south (3.3m<sup>2</sup>) of the structure, for the purposes of providing a bathroom and an entrance porch, respectively. The existing mezzanine (9m<sup>2</sup>) would be replaced by a first floor (13.5m<sup>2</sup>). The ground floor would be used as living space with a new

staircase leading to the first floor, which would be used as a bedroom. The overall floor space would be increased from 38.6m<sup>2</sup> to 52.1m<sup>2</sup>.

- 2.2.** The overall height of the structure would be increased from 4.294m to 5.375m (ridge height) and the height of the structure on the common boundary would be increased by approx. 750mm. The eastern roof slope would accommodate a dormer window.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse permission for one reason.

Having regard to

- (i) The limited scale and previous use of the existing building,
- (ii) The scale of the development now proposed,
- (iii) Its location within the rear garden of an existing dwelling,
- (iv) the significant increase in the scale, height and extent of the development proposed, directly adjacent to the boundary,

it is considered that the proposed development would result in the over-intensification of use of a domestic site and would result in an overbearing impact on neighbouring property to the west. The proposed development would, therefore, seriously injure the residential amenity of the subject property and of neighbouring properties to the west, and would be contrary to the proper planning and sustainable development of the area.

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

#### **3.2.1. Planning Reports**

- 3.2.1.1 The Area Planner noted that the Board had previously acknowledged (245729) that the structure has been in place, and been in use as a 'summer residence', since before October 1963, (the appointed day), and that as such, appears to have accepted that the structure is not unauthorised. It was pointed out, however, that the use was for a very limited duration and not for long-term occupation, but for seasonal

use, ancillary to the main dwelling. Given that the proposal would increase the floor area by over 25% and result in a more permanent self-contained separate residential development in the back garden, it was considered that it would result in over-intensive development of the site.

3.2.1.2 No objection was raised to the design, elevational treatment, plot ratio or proposed private amenity area. It was considered that while notably reduced in size and scale relative to the previously proposed scheme, the current proposal would result in a significant overbearing impact on neighbouring dwellings to the west. The Area Planner, therefore, recommended that planning permission be refused.

### 3.2. 2 **Other Technical Reports**

None.

### 3.3. **Prescribed Bodies**

Irish Water (10/10/16) – no objection subject to standard arrangements.

### 3.4. **Third Party Observations**

Submission from Jacqueline Finn (7/10/16) which had raised issues of overdevelopment of site; severe visual impact and overbearing design/scale; likely disruption due to fact that water pipes serving the mews run through her garden; and fire safety risk due to close proximity of her boiler to the mews.

## 4.0 **Planning History**

4.1 **08/630002** – planning permission granted by P.A. in 2008 for alterations and extensions to the main dwelling. This consisted of the demolition of an existing single storey rear extension, the removal of the existing dormer roof and chimney and replacement with a new roof at a raised level to provide full first floor accommodation and new two-storey extension to the rear and all associated site works. The permission converted a dormer bungalow into a full two-storey house and increased the floor area from a stated 163.1m<sup>2</sup> to 234m<sup>2</sup>.

4.2 **PL27.245729** – Permission was refused by the Board for extensions and alterations to the mews dwelling comprising new first floor extension; a new ground floor

extension to north for new bathroom; and a new extension to south for double-height porch entrance. The proposal sought to increase the height and footprint of the mews to provide for a 2 bedroomed dwelling unit with a mansard roof and an enlarged garden area. The single reason for refusal was based on over-intensification of the use of a domestic site and injury to residential amenity of the subject property and of the neighbouring site to the west, having regard to both the limited scale and nature of the use of the existing mews building and to the nature, scale, extent and height of the proposed development.

- 4.3 PL27.243054** – permission was granted by the Board in 2014 for a first floor extension to an existing single-storey dwelling on the site to the west/northwest following a third party appeal (PA Ref. 13/116) on the grounds of overdevelopment and adverse impact on visual and residential amenities.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **Bray Town Development Plan 2011 - 2017**

The site is zoned RE1 Primarily Residential Uses 'To protect existing residential amenity; to provide for appropriate infill development; to provide for new and improved ancillary uses'. Section 12 sets out the Development Control Standards and Guidelines. Section 12.3 contains the guidelines for residential development.

12.3.1.1 Residential Development in Established Residential Areas - provides general advice on infill development and the design and layout of extensions.

12.3.3.1 Private open space standards – sets out general requirements for private open space. The requirement for 1-2 bedroom houses is 48m<sup>2</sup> and for 3/4/5 bedroom dwellings is 60-75m<sup>2</sup> and a minimum rear garden depth of 11m.

12.3.7 Backland development – sets out standards including a general restriction to single storey and specifications for layout, open space and parking.

Table 12.4 – Minimum parking standards – 1 space per dwelling unit.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The first party appeal was submitted by Tom Phillips & Associates on behalf of the applicant, Kevin Kenefick. The main points raised may be summarised as follows:

- Compliance with Development Plan – the proposal fully accords with the zoning objective for the site. There are many sites in the area which have mews properties which were historically rented out to tourists from Dublin and elsewhere.
- Scale of development significantly reduced – The proposed alterations and extensions have been significantly reduced in terms of the scale, height and extent relative to that of the scheme previously refused by the Board (245729). The original proposal had sought to increase the floor area by 87% to 73m<sup>2</sup> with 2 bedrooms and a more substantial mansard roof. It is now proposed to increase the floor area by 31% to 52m<sup>2</sup> with just one bedroom and a mansard with a much shallower slope. The height of the west elevation (on the boundary) would be raised by just 775mm. The overall height would be increased but the design of the roof minimises the impact. It would not, therefore, result in overdevelopment of the site which would be either obtrusive or overwhelming.
- Over-intensification of use – the Statutory Declarations show that the structure was erected prior to October 1963, and as such is authorised. They also indicate that the mews has been occupied primarily as a ‘summer residence’. It is submitted that the Inspector and the Board had accepted the authorised nature of the structure and its associated residential use and that this did not form part of the board’s reason for refusal. Furthermore, it is submitted that there would be no increase in the number of bedrooms or occupants.
- Residential amenity – Extension – the proposed extension would not be injurious to the residential amenities of the neighbouring property to the west. It would not result in overshadowing or in overlooking. It is disputed that it would be overbearing or obtrusive as the pyramidal shape of the roof would mean that the highest part of the roof would be 1.6m distant from the

boundary, compared to 600mm in the previous scheme. The angle of the roof would be reduced from 76° to 56°.

- Need for development – the existing mews is substandard and in need of significant refurbishment. It currently does not comply with many aspects of the building control Regs., such as ventilation, insulation, accessibility and floor-to- ceiling heights.

## **6.2. Planning Authority Response**

6.2.1 The P.A. has not responded to the grounds of appeal.

## **7.0 Assessment**

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

- Nature/status of use and structure
- Compliance with Development Plan standards
- Residential amenity

### **7.2 Nature/status of use and structure**

7.2.1 The appellant has submitted that as a consequence of the Board's previous decision (245729), the authorised nature of the structure, and its associated residential use, have now been accepted. This opinion was based on an interpretation of the statutory declarations submitted with the application and on the wording of the Board's reason for refusal. I do not agree with this interpretation. Although it is accepted that the structure has been present on the site since at least the 'Appointed Day', the statutory declarations, (which are from neighbours who have resided nearby since 1957/1960), merely indicate that the "summer house structure...was used and occupied as a summer residence both before and indeed after the 1<sup>st</sup> October 1963". The fact that the mews has been used for residential purposes is not in question. There is no definition of "summer residence" but the term implies a temporary or occasional use, rather than a permanent one. However, there is no evidence on the file which demonstrates that the structure has been used as a self-contained, independent dwelling house, since on or before the 1<sup>st</sup> October 1963.

7.2.2 Notwithstanding this, it is considered that it is a matter for the planning authority to determine whether or not a use/structure is authorised and whether to pursue enforcement action where unauthorised works/uses are found to exist. It is acknowledged, however, that a grant of permission by the Board for a use/structure which does not have the benefit of planning permission, and where evidence has been provided relating to the existence of a use/structure prior to and after the Appointed Day, would effectively accept the authorised nature of that use/structure. In the case of 245729, however, the Board refused permission, and as such, it is not accepted that the use/structure is 'authorised' by reason of that decision.

7.2.3 The wording of the first part of the reason for refusal related the "over-intensification of the use of a domestic site" to firstly, the limited scale and previous use of the existing building; secondly, to the nature and scale of the proposed development; and thirdly, to the location of the mews dwelling within the rear garden of 'Hoeyfield'. The remainder of the reason related to the impact on residential amenity on both the main dwelling and on the neighbouring dwelling to the west, by reason of the scale, height and extent of the development. Thus, it is considered that it cannot be implied, from the reason for refusal, that the Board had effectively accepted the principle of the use/structure.

### **7.3 Compliance with Development Plan standards**

7.3.1 The overall approach to development within established residential areas in the Bray Town Development Plan (12.3.1.1) is to protect the existing local character, environmental quality and amenity/privacy enjoyed by existing residents. Infill housing is required to be compatible with existing densities and with other criteria such as plot ratios, building lines and adequacy of access for public and other services. It is stated that particular attention will be paid to factors such as the spacing between buildings, the safeguarding of privacy and the scale and massing of buildings etc.

7.3.2 Section 12.3.7 addresses Backland development, which is described as "the establishment of a new single dwelling and a building line to the rear of an existing line of houses". An exception is made to "residential development within the boundary of larger detached houses", which would not be considered as backland development. It is considered, however, that this exception would not apply to the



subject site given that it relates to a line of dwellings in a built-up area. It sets out a number of criteria which would influence the scale, density and layout of such backland development. These include a requirement to be single storey (to avoid overlooking); the provision of adequate vehicular access (c.3.5m); minimum of 1 no. off-street parking space; minimum of 48m<sup>2</sup> private open space for main and infill dwellings (or 60m<sup>2</sup> where more than 3 bedrooms); and a separation distance of 15m between the main and infill dwellings and a minimum rear garden depth of 7m (or 11m for 2-storey dwellings).

7.3.3 From the above, it is 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, and that the development should safeguard residential amenities. It is further noted that apart from the private open space provision and the fact that it is single-storey, the mews development, as it currently exists, would not comply with the current standards for such development, should the proposal have come before the planning authority at the present time. The building is located approx. 3-6m from the main dwelling house and has a rear garden depth of 5.531m. The proposed layout would reduce these dimensions even further with a rear garden depth of 3.461m at the western end. The proposal would also make the mews structure into a 2-storey dwelling. There is no parking provision or vehicular access (other than for the main dwelling).

7.2.4 In light of the foregoing, it is considered that the proposed development would consolidate an existing development which does not meet the current development standards for backland development. The appellant's arguments regarding the need for refurbishment due to the inability of the current structure to meet Building Control Regulations serves to reinforce this point, in my view. Although the proposal would not increase the number of bedrooms, it would improve the standard of accommodation and render the unit capable of being used as an entirely independent dwelling house, i.e. as a separate planning unit. Thus a grant of permission would result in an intensification of the use of a structure which would be unlikely to be permitted under the provisions of the current Development Plan.

## **7.2. Residential amenity**

- 7.3.1 The site is L-shaped and is directly bounded by five separate residential properties. Although the original houses would have been on reasonably generous plots, the OSi map indicates that the properties close to the corner of Meath Road and Putland Road may have been developed in the past with infill houses. As a result, the properties to the immediate west and east of the site are on quite restricted sites, with shallow rear gardens. As the mews dwelling and its proposed extensions abut the western boundary, the properties known as 'Waterford' and 'La Petite Maison' would have separation distances from the proposed development of approx. 9.633m and 2.0m, respectively.
- 7.3.2 It is noted that there are no windows proposed on the western, northern or southern elevations. The only first floor window is on the eastern roof slope, which would overlook the garden of the main dwelling. Thus the only potential overlooking issues that would arise are in respect of the main dwelling. A shadow analysis has been submitted which indicates that the proposed development would not be likely to result in any significant increase in shadowing of the adjoining properties.
- 7.3.3 The existing ridge height and roof height are stated as 4.29m and 2.1m, respectively, and these heights would be increased by approx. 1.08m and 775mm, respectively. The appellant has submitted that these increases would not have any adverse impact on the adjoining properties due to the limited scale of the increases. It is further argued that the proposed development incorporates a much reduced building envelope by reason of the redesign of the mansard roof with a shallower slope, which increase the distance of the high point of the roof from 600mm to 1.6m. I would accept that the additions in themselves are quite modest. However, it is considered that as the existing structure (and the proposed extensions) are located on the boundary and the adjoining dwellings are in very close proximity to the structure, the impact of a wall with a height of 3.715m and a mansard roof with a height of 5.375m is still likely to be significant. Thus it is considered that the amendments would not adequately address the Board's concerns of an overbearing impact, particularly in respect of 'La Petite Maison'.
- 7.3.4 The Board's decision (245729) also highlighted the potential impact on the residential amenity of the subject property. Given the close proximity of the mews

dwelling, it is considered that the impact on the main dwelling in terms of overlooking and loss of privacy would be increased by the siting of the proposed entrance approx. 3m from the existing rear extension of that property. Thus this aspect of the reason for refusal has not been adequately addressed.

#### **7.4 Appropriate Assessment**

- 7.4.1 The closest Natura 2000 site is located approximately 500m to the southeast, Bray Head cSAC. The site is also located within approx. 5km of two further Natura 2000 sites, namely, Ballyman Glen cSAC and Knocksink Wood cSAC, to the west. Given the distances involved from the European sites, 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 refused for the reasons and considerations set out below.

#### **9.0 Reasons and Considerations**

Having regard to the limited nature of the previous use of the existing structure, to its modest scale and location within the rear garden of Hoeyfield in close proximity to a number of existing dwellings, and to the nature and scale of the development currently proposed, it is considered that the proposed development would result in overdevelopment of the domestic site. Furthermore, the Board is not satisfied that the increase in the height and footprint of the building directly adjacent to the western boundary of the site and in close proximity to existing dwellings to the west and south would not result in a significant adverse effect on the residential amenities of these properties by reason of loss of privacy and overbearing impacts. The proposed development would, therefore, result in an intensification of inappropriate backland development which would seriously injure the residential amenities of the subject property and of neighbouring property to the west, and would be contrary to the provisions

of the current Bray Town Development Plan 2011-2017 and to the proper planning and sustainable development of the area.

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Mary Kennelly  
Planning Inspector  
16<sup>th</sup> February 2017