



An
Bord
Pleanála

Inspector's Report PL92.247630.

Development	Garage and roof to side of dwelling, canopy to front and associated elevated changes.
Location	4 Heywood Drive, Ardgaioithe, Clonmel, County Tipperary.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	16600823.
Applicants	William and Deirdre Hahessy.
Type of Application	Retention permission.
Planning Authority Decision	Grant permission with conditions.
Type of Appeal	Third Party
Appellant	Sangeeta Molloy.
Observer(s)	None.
Date of Site Inspection	1 st February 2017.
Inspector	Derek Daly.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision.....	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Development Plan.....	4
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Applicant Response	6
6.3. Planning Authority Response.....	6
7.0 Assessment.....	6
8.0 Recommendation.....	7
9.0 Reasons and Considerations.....	7
10.0 Conditions	8

1.0 Site Location and Description

- 1.1. The site is located in Ardgaoithe, a residential area located on the northern fringe of the town of Clonmel. The Ardgaoithe residential area, which is located to the north of the N24 Outer relief road and to the west of the R688 Clonmel Cashel Regional Road, consists of modern dwellings which are primarily semi-detached two storied residential properties with front and rear gardens.
- 1.2. In relation to the appeal site, no.4 Heywood Drive, there is on the site a modern two storied semi-detached dwelling with a pitched roofed garage located on the side (western) elevation. The southern boundary is defined by the estate road providing vehicular access to properties on Heywood Drive. The adjoining properties to the west and east are two storied semi-detached residential properties. The property to the west, no.6 has a garage with a dormer style extension above the garage and immediately adjoins the western boundary of the appeal site. The northern boundary of the site located at the northern extent of the rear garden area adjoins the garden of another residential property.

2.0 Proposed Development

- 2.1. The proposal as submitted to the planning authority on the 9th of September 2016 was for the retention of an A type pitched roof over the existing garage with a canopy continuing over part of the front elevation over the main front access to the dwelling. The maximum height above floor level to the ridge of the roof is stated as 4462mm. The roof extends to the common boundary with the property to the west and directly adjoins the side dormer style extension on the site of 6 Heywood Drive.
- 2.2. No additional floor space arises from the development.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant planning permission for the development subject to two conditions. The conditions are standard conditions

relating to the details submitted and collection and disposal of surface water drainage.

3.2. Planning Authority Reports

3.2.1. Planning Report

The planning report dated the 25th of October 2016 refers to:

- the site's planning history;
- relevant provisions of the current development plan;
- the principle of the development and appraisal of the development;
- recommends planning permission.

3.3. Third Party Observations

Sangreeta Molloy with an address of 6 Heywood Drive, the property to the west in a letter dated the 11th of October 2016 objected to the development indicating that by allowing the development the houses will be the same as a row of houses instead of semi-detached houses.

4.0 Planning History

P.A. Ref. No. 06/550187.

Permission granted on the 15th of March 2007 on the appeal site for the construction of a single storey extension with roof lights to the side including a bay window and porch subject to 5 conditions. Condition no.5 required the development to be carried out within the ownership of the applicant.

Enforcement file TUD-16-091 in relation to the development under appeal.

5.0 Policy Context

5.1. Development Plan

The current plan is the Clonmel and Environs Development Plan 2013-2019.

Relevant provisions.

Chapter 9 relates to Development Management Guidelines.

Section 9.13 relating to domestic extensions requires that “the design and layout of extensions to houses should have regard to the amenities of adjoining properties particularly as regards sunlight, daylight and privacy. The character and form of the existing building should be respected and external finishes and window types should match the existing”.

The Plan also seeks to generally implement the following guidelines in respect of residential extensions:

- The extension should generally be subordinate to the main building;
- The form and design should integrate with the main building, following window proportions, detailing and finishes, including texture, materials and colour;
- A pitched roof will be required except on some small single storey extensions;
- Designs should have regard for the amenities of the neighbouring residents, in terms of light and privacy; and
- Flush roof lights are preferable to dormer windows.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant Sangreeta Molloy, with an address of 6 Heywood Drive, which is the property to the west in a submission dated the 21st of November 2016 refers to:

- The previous permission on the site is referred to and in particular condition no. 5 relating to not encroaching on the adjoining property without the prior consent of the owner.
- The applicants cut onto the appellant’s wall and put in their garage roof without consent.
- If the appellant has to remove their extension would the appellant be responsible for the roof on the adjoining property which is the subject of appeal. The wall on which the roof is attached is legally the property of the appellant.
- The previous consideration of condition no.5 was not considered in granting the retention.

6.2. Applicant Response

The applicant in a response dated the 15th of December 2016 refers to:

- Houses nos 4 and 6 were built at the same time as were the original garages supported on a common party wall.
- The appellants applied for and were granted an extension to the side which was constructed on the same common party wall.
- The roof of the garage, which is the subject of the current appeal, abuts the common party wall and the lead flashing extends into the plasterwork of the common boundary wall by some 25mm.
- It is the applicants' understanding that consent is not required for such work and legal interpretation of the Land and Conveyance Law Reform Act 2009 supports this position.
- The issue at hand is a planning matter and legality of consent is a civil matter and outside of the scope of the Board.

6.3. Planning Authority Response

The Planning authority in a response dated the 19th of December 2016 refer to:

- The previous permission on the site was not implemented and the conditions attached to same have no bearing on the case at hand.
- The issues raised in the appeal are civil matters and not planning matters.
- Reference is made to ABP Ref. No. PL 23.243475.
- The planning authority consider that sufficient legal interest is demonstrated.
- The development is visually acceptable.

7.0 Assessment

- 7.1. Having regard to the submissions received and the documentation submitted the primary issue in relation to this appeal relates to the acceptability of the nature of the works to be retained.

- 7.2. In principle I would have no objection to the development as carried out, which has an A type pitched roof over the existing garage with a canopy continuing over part of the front elevation over the main front access to the dwelling. The roof extends to the common boundary with the property to the west and directly adjoins a side dormer style extension on the site of 6 Heywood Drive.
- 7.3. The issues raised in the appeal relate to boundary issues and that the two extensions are in effect tied together. It would appear that when the dwellings were originally constructed the garages used a common boundary wall in the construction.
- 7.4. With regard to boundary issues and cutting into the appellants wall as part of the construction, these issues are not planning matters and are considered to be civil matters. There would not appear to be any doubt that the applicant has demonstrated sufficient legal interest in the lands for which they have made a planning application. In this regard I would also refer to section 34 (13) which states that “a person shall not be entitled solely by reason of a permission under this section to carry out any development”.
- 7.5. It is considered that the extension to be retained is visually acceptable and generally accords with the proper planning and development of the area and also the provisions as set out in section 9.13 of the current Clonmel and Environs Development Plan. The development is not considered injurious to the adjoining residential amenities of the area in particular the adjoining property to the west of the appeal site.

8.0 Recommendation

- 8.1. It is recommended that permission for the development be **granted** for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the established pattern of development in the vicinity of the appeal site, including the construction of similar type development on the adjoining site to the west, it is considered that the development would not be contrary to the proper

planning sustainable development or injurious to the residential amenities of properties in the area.

10.0 Conditions

1. This grant of permission is for the retention of the development as indicated in the plans and particulars submitted on the 9th of September 2016.

Reason: In the interest of clarity

Derek Daly
Planning Inspector

4th February 2017