



An
Bord
Pleanála

Inspector's Report PL17.248141

Development	Retention of subdivision of dwelling into two apartments and rear floor extension and permission for removal of wall fence and associated works.
Location	6 Batchelor's Walk, Ashbourne, County Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	AA/161365.
Applicant	Reda Valciukaite.
Type of Application	Retention of Planning Permission and Planning Permission.
Planning Authority Decision	Refuse.
Type of Appeal	Third Party -v- Refusal
Appellant	Artsom Berzon.
Observers	None.
Date of Site Inspection	9 th May, 2017.
Inspector	Paul Caprani.

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1.0 Introduction

PL17.248141 relates to a third party appeal opposing Meath County Council's decision to issue notification to refuse planning permission for the subdivision of a dwelling into two apartments together with a rear extension incorporating a balcony and ancillary works at No. 6 Batchelor's Walk, Ashbourne, County Meath. Meath County Council refused planning permission for the proposal on grounds of poor quality of usable private open space and the impact of the proposed development on surrounding residential amenity for future occupants and for occupants of apartment dwellings in the vicinity.

2.0 Site Location and Description

- 2.1. The appeal site is located at No. 6 Batchelor's Walk which is located just off the Main Street of Ashbourne. The site is rectangular in shape and covers an area of 0.0212 hectares (212 square metres). The site currently accommodates a derelict two-storey dwellinghouse which I estimate to be between 40 and 50 years old. The perimeter of the front of the site is bounded by hoardings. In terms of surrounding development there is an attached single-storey cottage to the immediate west of the subject site fronting onto Batchelor's Walk Road. A more recently constructed three-storey commercial property is located on lands to the immediate east of the subject site. This building fronts directly onto Batchelor's Walk and accommodates retail uses at ground floor level with residential accommodation above.
- 2.2. The subject site backs onto a courtyard/surface car parking area associated with an apartment complex (Hunters Court) comprising of three no. three-storey apartment blocks including the building to the immediate east of the subject site. The apartment block to the east of the subject site faces onto Hunter's Lane which runs northwards to the east of Batchelor's Walk. A separate apartment block to the north-east of the subject site faces southwards onto the internal courtyard/surface parking area.
- 2.3. The existing dwelling on site has virtually no rear garden. A small narrow yard c.1.5 metres in depth runs along the rear of the subject site. Lands immediately adjoining

the rear boundary incorporate a plant room and a number of car parking spaces associated with the adjoining apartment complex.

3.0 Proposed Development

Retention of planning permission is sought for the following on site.

Retention of works undertaken involving the subdivision of the existing original dwelling unit into two apartment units. The two apartment units comprise of the following:

- Unit No. 1 which is 98.7 square metres incorporates the western portion of the building and comprises of a kitchen, dining, lounge/storage area together with bathroom at ground floor level and two bedroom units at first floor level including a timber decking area cantilevered over the roof pitch to the rear of the dwelling.
- The eastern portion of the building accommodates a smaller one-bedroomed apartment - 46.3 square metres at ground floor level only.
- The retention works also relate to an extended area out from the original bungalow comprising of two bathrooms, two bedrooms, a kitchen and ancillary circulation space to the rear.

Planning permission is also sought for the following:

- The removal of an existing 1-metre-high wall and 1.8-metre-high wooden hoarding fence to the front and the creation of private open spaces, bin storage areas and car parking.
- The parking area and garden to the front comprises of 67 square metres, two car parking spaces are also to be provided to the front of the dwellinghouse on the public road.
- Planning permission is also sought for the provision of obscure glass glazing around the first floor balcony area to the rear of the site serving the two- bed apartment (2.1 metres high).

4.0 Planning Authority Decision

4.1. Decision

Meath County Council refused planning permission for the proposed development for a single reason which is set out below.

Having regard to the poor quality of usable private open space available to the proposed units and overlooking of adjoining residential property, which fails to accord with the standards set out in the “Sustainable Urban Housing: Design Standards for New Apartments”, it is considered that the proposed development would seriously injure the residential amenity of future occupants and depreciate the value of adjoining development, would further represent overdevelopment of a restricted site which would be contrary to “Sustainable Urban Housing: Design Standards for New Apartments” (DoEHLG) and the Meath County Development Plan 2013 – 2019 would set a poor precedent for other similar development and would be contrary to the proper planning and sustainable development of the area.

4.2. Documentation Submitted

4.2.1. The application was received by the Planning Department on 9th December, 2016.

4.2.2. A detailed planning report was submitted with the application which sets out:

- The site location and description.
- The relevant planning history (see below).
- The proposed development for which planning permission and retention of planning permission is sought.
- The report also sets out the planning context relating to the site and assesses the development’s compliance with the local Development Plan, the County Development Plan, the Guidelines for Planning Authorities on Sustainable Urban Housing and concludes that the proposed development represents a high quality development which is formulated within the parameters of county and local policy.

4.3. Internal Reports

A report was prepared by Meath County Council Road Design Office. It notes that there conflicting drawings submitted one of which misrepresents the sightlines available. The parking requirement under the Development Plan is for three spaces and only two are provided. However, this may be acceptable in this case. It is stated there is no objection to the layout as proposed in the ground floor plan on Drawing No. 14188-PP-003. A road opening licence will be required for works to the public road and footpath.

4.4. Planner's Report

4.4.1. The planner's report assesses the proposed development in terms of:

- Planning Policy.
- Design and Impact on Amenities.
- Access and Parking.
- Compliance with Part V.
- Appropriate Assessment.
- Flood Risk Assessment.
- Water Services.

4.4.2. The report states that there are no changes in the current application to what was proposed for retention under Reg. Ref. AA/160190 in 2016. This previous application was refused. In terms of design and amenity, concerns were expressed that the site in question is very constrained and does not comply with the standards set out in the Meath County Development Plan. It is considered that the proposed development would provide a poor level of amenity for future residents. In terms of access and car parking, it is stated that the parking proposed appears to be outside the applicant's control and landownership and reference is also made to the internal road reports which makes reference to conflicting information in the drawings submitted and the parking requirement for three spaces where only two are provided. It is concluded therefore that the development proposal fails to address the reason for refusal associated with previous applications on site and would provide a poor level of

residential amenity for future residents in respect of private open space and would negatively impact on the residential amenities of adjoining properties. A refusal of planning permission was therefore recommended.

5.0 Planning History

5.1.1. Details of a number of decisions relating to the site are contained on file namely:

- 87/000148
- 97/1012
- AA/150882
- AA/160190.

The latter two files are particularly pertinent to the current applicant before the Board.

Under AA/150882 Meath County Council refused planning permission for the following:

- Retention of the subdivision of the existing single unit into two apartment units.
- Retention for the extended area comprising of two bathrooms, two kitchens and one bedroom together with a dining area.
- Retention of an extended area comprising of a timber decking balcony.
- Planning permission for the removal of the existing 1-metre-high wall and 1.8 metre high wooden hoarding to the front to create three car parking spaces with bin storage and box planters.

Planning permission was refused for reasons relating to the poor quality of private open space, non-compliance with sustainable rural housing design guidelines for new apartments and the proposal would seriously injure the residential amenity of future occupants and of adjoining developments.

Under AA/160190 planning permission and retention of planning permission was sought for essentially the same application and the decision was refused by Meath County Council for essentially the same reasons as those referred to above and for the reason set out in the current refusal.

It appears that neither of the two previous applications were subject of an appeal to the Board.

6.0 Grounds of Appeal

6.1. An appeal was submitted on behalf of a third party, Artsom Berzon by Hughes Planning and Development Consultants. The grounds of appeal are outlined below.

- It is noted that the Planning Authority takes no issue with the principle of development but merely states that appropriate standards are not complied with.
- The subject site is zoned for residential development subject to the need to protect, provide for and improve town and village facilities and uses. Residential is a permitted use under the “B1” zoning. It is considered that the proposed development does not result in a loss of residential amenity and is therefore consistent with the zoning objective.
- It is also considered that the proposed development will provide a high standard of design which will retain the active use of the building within a town centre and as such is in compliance with various guidelines and objectives in the Local County Plan. The proposal also promotes a range of housing units in the area.
- The grounds of appeal go on to set out standards for apartments contained in the Departmental Guidelines together with the minimum aggregate floor areas for living, dining and kitchen areas. The grounds of appeal state that the proposal fully complies with all the minimum standards set out.
- In terms of private open space, it is noted that the Meath Development Plan requires a minimum of 60 square metres of private amenity space for a three bedroom dwellinghouse. The Board is asked to note that the subject site is not a conventional site to accommodate a dwellinghouse and therefore the arrangement of private amenity space is more suitable for town centre apartment living. It is also suggested there is a lot of easily accessible public amenity open space within walking distance of the subject site and these are illustrated in Figure 2.0 of the grounds of appeal. It is also noted that the private open space provided by the apartments to the east of the subject site appears to be limited yet these apartments nevertheless received planning permission from Meath

County Council. It is submitted that the balcony provides good quality private open space and does not result in any overlooking as it faces the car park.

- In terms of residential density reference is made to various policy documents which seek to increase and improve residential density in built up areas.
- In terms of residential amenity, it is stated that there will be no negative and visual impact associated with the development, no loss of light, overshadowing or overbearing impact in terms of the nature of the development.
- Details of the poor quality of the environment associated with the existing building on site is set out. Photos of the work carried out before and after the development is completed are contained in the grounds of appeal.
- It is submitted that the proposed development is well designed on an appropriately sized site which would make a strong contribution for providing additional housing in the Ashbourne urban area. The subject site is also well served by public transport.
- In terms of car parking. it is stated that two car parking spaces are provided as part of the proposal and this is considered to be appropriate given the site's location in Ashbourne Town Centre. This point was acknowledged in the Roads Design Report.
- Finally, it is noted that there were no objections received in respect of the proposed development.

7.0 Appeal Responses

- 7.1. A response on behalf of Meath County Council sets out the site history together with the issues raised in the grounds of appeal. The Planning Authority states that consideration has been given in the context of a wide range of policy guidance in relation to residential development. It states that the applicant has failed to address previous reasons for refusal and considers open space to be deficient and would be detrimental to the amenity of future residents. It is also noted that floor to ceiling heights are below the requirements and that Meath County Council encourage apartment developments which are above the minimum standards set out. Meath

County Council therefore request that the Board uphold the decision and refuse planning permission and retention of planning permission for the works undertaken.

8.0 Planning Policy Context

8.1. Meath County Council Development Plan

In terms of zoning, the zoning map for Ashbourne is contained in Volume 5 of the Meath County Development Plan and the subject site is zoned B1 “*commercial/town or village centre*” with the objective to “*protect, provide for and improve town and village centre facility and uses*”. Residential uses are permitted in principle under the B1 zoning objective.

The Meath County Development Plan designates Ashbourne as a moderate sustainable growth town. Objective SFOBJ11 seeks “*to ensure that moderate sustainable growth towns develop in a self-sufficient manner with population growth incurring in tandem with the physical and social infrastructure and economic development, development should support a compact urban form and integration of land use and transport*”.

Chapter 11 of the Plan outlines detailed criteria for new residential development including quantitative and qualitative standards. The plan states that Meath County Council consider that appropriate levels of well-designed apartment development can make a strong contribution to providing housing in central urban areas particularly in large growth towns and moderate sustainable growth towns. The private dwelling should have a high quality of building design and site layout and have due regard to the character of adjoining streetscape or landscape. Meath County Council will generally seek apartment units larger than the minimum standards set out in *Sustainable Urban Housing: Design Standards for New Apartments (DoEHLG, 2011)* and development consisting solely of units to accord with the minimum standards will be discouraged. A mix of units shall be provided in schemes in terms of design size and types of units.

8.2. **Sustainable Urban Housing: Design Standards for New Apartments (December 2015)**

The above standards set out specific guidelines for:

- Internal space standards for different types of apartments.
- Dual aspect ratios.
- Floor to ceiling height.
- Stair/life core areas.
- Storage spaces.
- Amenity spaces including balconies and patios.
- Room dimensions for certain rooms.

An appendix to the rear sets out specific minimum standards relating to the above. Where relevant specific standards will be referred to in my assessment below.

9.0 **Planning Assessment**

I have read the entire contents of the file, visited the site in question and have had particular regard to the Planning Authority's reasons for refusal and the issues raised in the grounds of appeal. I consider the critical issues in determining the current application and appeal are as follows:

- Quantity and quality of public open space provided
- Overlooking of adjoining residential property
- Compliance with design standards for new apartments (2015)
- Overdevelopment of a restricted site
- Other Issues

9.1. **Quantity and Quality of Public Open Space Provided**

- 9.1.1. What is proposed in this instance is the subdivision of a formerly single residential unit into separate one bedroomed and two bedroomed apartments. As indicated in

the planner's report, the site in question is a constrained site within the town centre of Ashbourne. The site has a depth of approximately 16 metres and a width of 14 metres. Permission is sought under the current application for retention of works carried out including extending the property to the rear. It is not altogether clear to what extent the property has been extended to the rear. However, the drawings would indicate that the original structure on site was part of a pair of semi-detached dwellings and therefore it is likely that the rear building line followed that of the adjoining dwelling to the west. It appears therefore that works for which retention of planning permission is sought includes the extension to the rear of the dwellinghouse by approximately 3½ metres. This reduced the depth of the overall yard for approximately 5 metres to 1½ metres. The Board will note that the works undertaken to the rear of the dwellinghouse at ground floor level currently constitute unauthorised works for which retention of planning permission is sought. Thus the constrained nature of the private open space provision can be directly attributable to the unauthorised works which has been undertaken on site which significantly reduced the rear yard associated with the original dwelling on site.

- 9.1.2. The works undertaken on site have resulted in the provision of private open space to the rear of the two apartments amounting to 7.1 square metres for the two bedroomed apartment and 6.5 square metres for the one bedroomed apartment. I consider that the residual private open space is of little usable or amenity value due to the dimensions and configuration of the private open space and also the fact that the space in question is north facing and is likely to receive very occasional direct sunlight which would be restricted to the summer months only. The amenity value of this open space therefore is negligible and the fact that it is located adjacent to a number of car parking spaces and a plant room would further diminish the amenity value associated with the private open space. Both apartment units incorporate more generous open space to the front of the house. This open space is south facing and therefore of greater amenity value. However, the open space provision is still modest at 17 square metres in the case of the two bedroomed apartment and 13.8 square metres in the case of the one bedroomed apartment. It is also located adjacent to a busy city centre street. There will be no doubt in my opinion that the units on site would be better served by more generous areas of private open space to the rear of the dwelling.

- 9.1.3. In terms of the proposed decking area at first floor level, this area amounts to 9.32 square metres. The incorporation of a 2.1-metre-high glazed screen surrounding the decking area would significantly reduce the amenity value of this open space, particularly having regard to the north facing orientation of the private space.
- 9.1.4. Therefore, I would generally agree with the Planning Authority that while the proposed apartment units comply with the quantitative standards set out in Government guidance in relation to apartment development in terms of minimum floor areas for private amenity space (5 square metres in the case of one bedroomed apartments and 7 square metres in the case of 2 bedroomed apartments), I consider the quality of the open space provide particularly to the rear of the development to be substandard and therefore not in accordance with the proper planning and sustainable development of the area.

9.2. **Overlooking and Impact on Residential Amenity**

- 9.2.1. The main potential amenity issues arise in respect of the rear of the site and this concerns Apartment No. 2. The only potential for overlooking arises from the proposed decking area at first floor level. The living area and bedroom no. 2 associated with the two bedroomed apartment both incorporate windows on the southern elevation overlooking Batchelor's Walk. No overlooking issues arise on the southern elevation of the dwelling. As part of the proposed decking area the applicant intends to construct a 2.1-metre-high obscure-glazed screen. This in my view will ensure that no overlooking issues would arise should the Board consider it appropriate to grant planning permission. The rear of the apartment unit overlooks a car parking area and the nearest apartments are 16 metres to the north.
- 9.2.2. I was unable to gain access to the courtyard area associated with the adjoining apartment development during my site inspection and therefore it is not altogether clear whether or not the apartment block to the immediate north incorporates windows on the southern facing gable end which would directly face the subject site. However, having regard to the fact that the separation distance between the decking area and the southern elevation of the apartment block to the north c.16 metres together with the proposal to incorporate 2.1-metre-high obscure glass around the decking area significantly reduces the potential for overlooking of adjoining

apartment units. I am therefore satisfied that no significant overlooking issues arise as a result of the proposed development.

9.3. Compliance with Design Standards for New Apartments (Department of the Environment, Community and Local Government, December 2015)

9.3.1. The applicant has indicated in the grounds of appeal that the apartment units which are the subject of the current application and appeal comply with the minimum size standards set out in the above guidelines with regard to:

- Minimum floor areas.
- Minimum living areas.
- Minimum bed/floor areas/widths and minimum storage area.
- Minimum private amenity space area.

9.3.2. Meath County Council however point out that the minimum floor to ceiling heights do not accord with the standards out in the guidelines. The drawings submitted (see Section A-A of the drawings) indicate that the floor to ceiling heights for the ground floor is 2.648 and the for the first floor is 2.336 metres. The guidelines state that the minimum floor to ceiling height would accord with the Building Regulations requirement of 2.4 metres except in relation to ground floor apartments where it should be greater. It is stated that it is a specific planning policy requirement that ground floor level apartment floor to ceiling heights shall be a minimum of 2.7 metres. These should be the absolute minimum requirements and applicants and the designer should consider the potential of increasing the minimum above these limits.

The standards therefore are explicit and unambiguous in stating that minimum floor to ceiling heights must accord with the Building Regulations and that these floor to ceiling heights are the “absolute minimum requirements”. The development which is the subject of the current application therefore does not comply with the minimum standards and as such contravenes the clear and unambiguous statement contained in the guidelines with regard to the provision of minimum floor to ceiling heights.

9.4. Overdevelopment of a Restricted Site

9.4.1. Arising from my assessment above thus far, I consider that the proposed development represents an overdevelopment of a restricted site. While I fully accept that there is a requirement to increase residential density in town centres where good access to public transport services and community facilities exist, such an increase in density cannot be at the expense of qualitative standards in respect of apartment development. Both the applicant and the Planning Authority acknowledge that the subject development occupies a very constrained site and this creates problems in terms of providing higher density while protecting requisite residential amenity, particularly for the occupants of the site in question. Having regard to the constrained nature of the subject site I consider that the site in question is much more suitable for the development of a single residential unit in the form of a single dwellinghouse. The fact that the applicant has carried out unauthorised works including the extension at the ground floor to the rear in my view severely restricts the potential to provide appropriate amenity levels for occupants of the apartment units. A less intensive development would reduce the requirement to subdivide the limited private open space requirement and car parking provision and would result in my view in a better quality residential development on the subject site.

9.5. Other Issues

Although not specifically referred to in the reason for refusal in the grounds of appeal the issue of parking was raised. The report from the Roads Design Office noted that the drawings indicated a misrepresentation of the sightlines available. Having inspected the site, I consider that adequate requisite sightlines are available in both directions and further note that there are parallel public car parking spaces to the front of the neighbouring property to the east. In respect of car parking provision, I would agree with Meath County Council that if the Board are minded to grant planning permission in this instance that two car parking spaces would suffice having regard to the town centre location of the site. It appears however that the car parking spaces are located outside the applicant's ownership and this issue would have to be addressed and subject of an agreement with Meath County Council by way of condition.

10.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and/or nature of the receiving environment and/or proximity to the nearest 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.

11.0 **Conclusions and Recommendation**

Arising from my assessment above therefore I recommend that the Board uphold the decision of Meath County Council and refuse planning permission and retention of planning permission for the sole reason set out below.

12.0 **Reasons and Considerations**

It is considered that the development for which planning permission and retention of planning permission is sought, by reason of poor quality of usable private open space and failure to comply with standards set out in Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government (December 2015) in respect of floor to ceiling heights, it is considered that the proposed development would seriously injure the residential amenity of future occupants and would represent an overdevelopment of a restricted site, would set a poor precedent for similar type development in the area and would therefore be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector

15th May, 2017.