



An  
Bord  
Pleanála

## Inspector's Report PL19.248175.

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### Development

Retention of existing 1-bedroom dwelling, and permission for a change of use of same to domestic garage/fuel shed within the curtilage of a Protected Structure.

### Location

John's Place, Birr, Co. Offaly.

### Planning Authority

Offaly County Council

### Planning Authority Reg. Ref.

16/437

### Applicant(s)

Michael and Liz Nolan

### Type of Application

Retention and Permission

### Planning Authority Decision

Grant subject to conditions.

### Type of Appeal

Third Party vs. grant

### Appellant(s)

Philomena Horan

### Observer(s)

None.

### Date of Site Inspection

1<sup>st</sup> June 2017

### Inspector

Ciara Kellett

## 1.0 Introduction

There are two concurrent appeals on the same site in John's Place, Birr, Co. Offaly – the subject appeal and appeal reference PL19.248177. Each appeal refers to different structures but both structures are located in the applicant's rear garden. The applicants and appellants are the same individuals in both cases. There are interconnected issues to do with residential amenities, however, I have assessed each case on its own merits.

## 2.0 Site Location and Description

- 2.1. The appeal site is located near the centre of Birr town, on the north side of John's Place on the R440 road. The main dwelling is one of a number of fine Georgian Houses on the approach to the town centre from the east. Most of the dwellings in the vicinity of the site are Protected Structures, including the subject dwelling, which is listed as Ref. 53-310 in the Birr Town Plan.
- 2.2. The dwelling was originally a detached five bay three storey house. The house has been sub-divided and the applicant resides in the western half of the building and the appellant resides in the eastern half. An extension on the western side of the house, provides access for the applicant. An archway to the east of the house provides vehicular access to the rear.
- 2.3. To the rear of the subject dwelling lies a former coach house and behind that, a one-bedroomed residential unit, which is the subject of this planning appeal. There is a very large garden to the rear and the site is not overlooked. The large green area behind the garden is known as the Rectory Site.
- 2.4. The large rear garden is part of the applicant's dwelling. It wraps around the appellant's yard area which is much smaller. As a result, the coach house and residential unit behind it, are located directly to the rear of the appellant's side of the dwelling.
- 2.5. As noted above, a second planning appeal is concurrently before the Board for the redevelopment of the coach house itself, ABP ref. PL19.248177.
- 2.6. Appendix A includes maps and photos of the site.

### **3.0 Proposed Development**

- 3.1. The proposal consists of retention of a residential unit and permission for a change of use of that unit to a domestic garage/fuel shed. The unit is currently laid out as a single storey one-bedroom dwelling with an open plan kitchen and living area and shower room. It is stated as being 36sq.m in area and 3.5m to ridge height. It is located to the rear of the coach house and is not visible from the public road.
- 3.2. The application development description refers to ancillary site works. The drawings include a reference to a 1.8m high block wall with double gates which appears to lead into the rear yard of the appellant's dwelling.
- 3.3. A photographic survey of the unit accompanies the application.

### **4.0 Planning Authority Decision**

#### **4.1. Decision**

The Planning Authority decided to grant permission subject to 4 conditions, including a condition that the proposed change of use is carried out within 6 months of the date of the permission, and that the 1.8m high wall with associated gates is rendered and capped.

#### **4.2. Planning Authority Reports**

##### **4.2.1. Planning Reports**

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Addresses the third party concerns including commenting that it is the applicant's decision on what they want to apply for permission for, and that a garage/fuel shed is normally in the rear of dwellings. Notes wall and gates have not been constructed, but that the reference to "all ancillary works" in the notices can include the construction of a wall. Notes Section 57(1)(a) provides for exempted development works, if works do not materially affect the character of the Protected Structure. Considers the wall would not materially affect the dwelling.

- Notes Roads Engineer's comments on the proposed wall. Wall does not exist currently and proposal does not state if it is to be constructed.
- Concerns raised about the sewer passing under the coach house – the sewer has been decommissioned.
- The siting of the proposal is acceptable as the structure is lower than the existing outbuildings, and as such, is not visible and will not detract from the setting of the house and garden.
- Considers the development is acceptable.

The decision was in accordance with the Planner's recommendation.

#### 4.2.2. Other Technical Reports

- **Area Engineer:** Notes wall is not built and proposal does not state if wall is to be constructed. If building is not converted, provision for parking is required.
- **Environment & Water Service:** No comments on development.
- **Senior Executive Architect:** Considers unit does not detract from the setting of the house and garden, is removable and is acceptable.

#### 4.3. Prescribed Bodies

- **Arts Council, Heritage Council, Dept. of Arts, Heritage, Regional, Rural and Gaeltacht affairs, An Taisce:** File Referred, no submission on file.

#### 4.4. Third Party Observations

One third party submissions was made by the appellant. In summary:

- It is considered that the unit constitutes backyard development and was constructed without permission,
- Questions logic of converting this habitable unit to a fuel shed, while proposing conversion of the coach house to residential use, and considers its residential use will remain,
- Notes 1.8m high wall and gates do not exist and unclear if they are proposed or existing on drawings.

## 5.0 Planning History

There are planning applications associated with the site. They are:

- **Reg. Ref. BR 1648:** Reinstatement of the roof over the existing coach house was granted permission in March 2011.
- **ABP Ref. PL19. 248177, OCC Reg. Ref. 16/438:** This file is for the conversion of the coach house to residential use, and is concurrently a live file before the Board.
- **UD 16/27:** The Planner's Report notes that a warning letter was issued for non-compliance with condition of BR1648 relating to materials used, and for the unauthorised development of a single storey building for residential uses to the rear of the coach house.

In the vicinity, there have been a number of planning applications associated with the development of mews in the rear gardens of the buildings facing John's Place.

## 6.0 Policy Context

### 6.1. Birr Town & Environs Development Plan 2010 – 2016

The site is subject to the policies and objectives of the Birr Town & Environs Development Plan 2010 – 2016 (Extended until 2020).

Chapter 3 refers to Development Strategy; Chapter 12 refers to Built Heritage; Chapter 14 to Built Form and Urban Development Standards; and, Chapter 15 to Land Use Zoning & Zoning Matrix.

Chapter 3 identifies key areas for development in the town which include a large area to the rear of the subject site (the Rectory Site). It is noted that this area is virtually landlocked and a strategy is set out to open up the area in a co-ordinated way.

Chapter 12 notes that the aim is to protect and enhance the built heritage of Birr. Birr was designated a 'Georgian Heritage Town' in 1994 because of its unique and largely intact architectural character and setting. Policies include:

**BTEP 12-07** *It is the Councils' policy to exercise its statutory powers to preserve and enhance the amenity and unique character of the town. A major consideration in Development Management will be the effect of any proposed development upon the environmental character of the town's historical and architectural features.*

It is the Council's objective to:

**BTEO 12-04** *To protect the character of the streetscapes and squares of Market Square, Emmet Street and Square, Oxmantown Mall, Townsend Street, The Green, John's place, Compton Row, Newbridge Street, Connaught Street, O'Connell Street, Main Street, Castle Street, St. Brendan Street and Crinkle village core.*

**BTEO 12-05** *To secure, where feasible and appropriate, the protection of the character of the existing original carriage archways/access-ways to the rear of existing properties.*

The site is outside any zone of archaeological potential as identified on Map 12.1 of the Plan.

The Birr Town Record of Protected Structures includes the subject site. It is listed as reference 53-310 (Ref. 14819212 in NIAH list). It is considered of Regional importance and is described in detail. In summary, it is noted that it is a *Detached five-bay two-storey house over raised basement, built c.1800, with flat-roofed single-bay single-storey extension above integral carriage arch to east and flat-roofed entrance bay to west.*

Chapter 14 refers to development standards and includes car parking standards. 1 space per unit is required in the town centre.

Chapter 15 zones the site for residential development.

## 6.2. Natural Heritage Designations

The site is located c. 2.5km from the Dovegrove Callows SPA (Site Code 004137), c.4.8km from the Lisduff Fen SAC (Site Code 002147), c.5.5km from the Sharavogue Bog SAC (Site Code 000585), and, c.5.2km from Ballyduff/Clonfinane Bog SAC (Site Code 000641).

## 7.0 The Appeal

### 7.1. Grounds of Appeal

One third party appeal has been submitted from the adjoining resident. In summary, it states:

- Considers that the Council did not give due consideration to the appellant's objection having regard to the building of a single storey dwelling in the rear garden of a Protected Structure without the necessary planning permission.
- The Council did not give due regard to the sewerage serving the property which is situated in the appellant's driveway.
- The sewerage pipes were constructed in the 18<sup>th</sup> Century and there is a concern that they may block up.
- The pipes were not designed to take that amount of sewage and the applicants should provide new sewerage to facilitate this structure.

### 7.2. Applicant Response

No response was received from the applicant within the statutory timeframe.

### 7.3. Planning Authority Response

The Planning Authority notes the submission by the appellant and requests the Board to uphold their decision.

## 8.0 Assessment

The Board is requested to note that there is a concurrent appeal before the Board (PL19.248177) for retention of refurbishment and permission to complete same to the coach house on the same site. The appellant and applicants are the same in both appeals. There are interconnected issues to do with residential amenities on both files. However, I have assessed each case on its own merits. Other issues specific to each file are dealt with accordingly.

I consider the key issues to be addressed in this appeal are set out below. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Foul Sewer
- Residential Amenities
- Appropriate Assessment

### **8.1. Principle of Development**

The applicants are seeking retention permission for the residential unit in their rear garden and permission to change its use to a garage/fuel shed. The Planning Authority included a condition that the change of use is to take place within six months of the granting of the permission, which I consider reasonable. While the applicant has requested retention permission for the residential unit, I am assessing this structure on the basis that this development will be changed to use as a garage/fuel shed.

A domestic garage/fuel shed that is ancillary to the use of the main dwelling is acceptable. It is located to the rear of the coach house and will not be visible from the public road. It will not have a negative impact on the Protected Structure and it is located in an area that is zoned for residential development and uses.

Therefore, the principle of development for use of the structure as a domestic garage is acceptable. I would recommend that should the Board consider granting permission, a condition should be included stating that the structure cannot be used for habitable purposes, thereby providing that use of the structure for habitable purposes would be unauthorised.

### **8.2. Foul Sewer**

The appellant expresses concern that the sewer pipe runs under her driveway. I note that the Water Services and Environment section of the Council did not express concerns because the pipework is decommissioned. This is noted on the change of use drawing and stated on the applicant's planning application form also.



I would consider that there is no need for such infrastructure for a domestic garage. On the basis that the use of the structure is as a domestic garage/fuel shed, and having regard to the information on file which states that the waste connection has been decommissioned, I do not consider that there will be an impact on the infrastructure in the area.

I therefore consider that the proposal is acceptable.

### 8.3. Residential Amenities

A wall and double gates are shown on the planning drawings. The wall and double gates are not yet built. From my site visit I noted that there is no existing structure to the rear (e.g. wall, fence, etc.) to indicate the actual rear boundary between both dwellings. However, in accordance with the Planning and Development Regulations, 2001 as amended, the planning drawings which accompany both applications indicate a red line around the boundary of the site. There is no blue line identified and it is assumed that the red line indicates the extent of ownership of the applicant. The wall and gates are shown on the red line with the gates opening into the applicant's garden.

I would be of the opinion that the wall as a boundary treatment would improve privacy for both parties. I note that the appellant raised concerns with light in her submission to the Planning Authority on the other file before the Board (PL19.248177). According to the drawings, the window at ground floor level nearest the wall which could be affected by a reduction in light is within the ownership of the applicant. The two ground floor windows belonging to the appellant are on the north face of her dwelling and are set back, and are unlikely to suffer a significant reduction in light as a result of the wall.

I would consider it important that the wall is rendered and capped on both sides for visual amenities, and would recommend a condition to that effect.

With respect to the double gates, they are obviously designed to allow for vehicular access to the rear of the applicant's dwelling. Vehicular access to the rear is only available via the archway on the appellant's side of the building. There is no reference in the application documents to a right of way. The appellant refers to a

right of way 'issue' on the other file before the Board (PL19.248177), but does not explicitly raise an objection.

The insertion of gates would allow for vehicular access to the applicant's property generally. As such, I would not have an objection to the inclusion of the gates. The question of the exercise of any right of way is a legal matter between the parties and outside the scope of a planning permission.

#### **8.4. Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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.

#### **9.0 Recommendation**

I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

#### **10.0 Reasons and Considerations**

Having regard to the provisions of the Birr Town Plan 2010 – 2016 (extended to 2020), the nature and scale of the modifications proposed, the residential zoning of the area which provides for such ancillary uses, and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposal would not seriously injure the residential amenities of the area or seriously impact on the Protected Structure and would be in accordance with the proper planning and sustainable development of the area.

#### **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application.

**Reason:** In the interest of clarity.

- 2 Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to uses for purposes incidental to the enjoyment of the dwelling house and shall not be used for habitation or the carrying on of any trade or business, unless otherwise authorised by a prior grant of planning permission.

**Reason:** To protect the amenities of the adjoining property and property in the vicinity.

3. The proposed 1.8m high block wall with associated gates shall be rendered and capped on both sides.

**Reason:** In the interest of visual amenities.

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Ciara Kellett  
Inspectorate

8th June 2017