



An
Bord
Pleanála

Inspector's Report PL19.248177.

Development	Retention of refurbishment of previously derelict coach house to a residential unit and permission to complete same 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 & 16/438
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 st 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 PL19.248175. Each appeal refers to different structures but both structures are located in the applicant's rear garden. The applicants and appellant 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 site, 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 the former coach house and behind that, a one-bedroomed residential unit, which is the subject of a separate planning appeal which is concurrently before the Board, to retain and convert it to use as a garage/fuel shed (Ref. PL19.248175). 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 rear garden is part of the applicant's dwelling. It wraps around the appellant's yard which is much smaller. As a result, the coach house is located directly to the rear of the appellant's dwelling.
- 2.5. Appendix A includes maps and photos of the site.

3.0 Proposed Development

- 3.1. The proposal consists of retention of the refurbishment works that have already started on the coach house, and permission for completion of same. The coach house is stated as being 114sq.m in area and 5.575m high.
- 3.2. The dwelling when completed will have a ground and first floor. On the ground floor there will be one bedroom, kitchen/living area and separate sitting room, and on the first floor there will be an open plan lounge, bathroom and bedroom.
- 3.3. Modifications proposed to the materials used include replacement of roof tiles with natural slate, replacement of current uPVC windows with timber windows, and replacement of rooflights with low profile 'conservation type' rooflights, as per previous planning permission.
- 3.4. 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.
- 3.5. 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 6 conditions, including a condition that the unit shall be occupied by a member of the family and shall not be sold or leased as a separate dwelling unit, and that specified works are carried out within 6 months of the grant of permission.

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 stating: The coach house has been in-situ since the 19th Century and would have accommodated people/workers; Notes wall and gates have not been constructed but that "all ancillary works" can

include the construction of a wall, and notes Section 57(1)(a) provides for exempted development works if works do not materially affect the character of the Protected Structure, and considers the wall would not materially affect the main dwelling; Notes that there are other properties on the street which have converted coach houses; considers there is sufficient parking in the rear accessed through the archway; considers that the proposal will connect into public infrastructure which is acceptable in an urban area; and, notes that enforcement proceedings were initiated by the planning authority.

- Notes Roads Engineer's comments that the proposal should be referred to the Architect and reference to the proposed wall. Wall does not exist currently.
- The siting of the proposal is acceptable as the structure is lower than the existing dwelling, and as such, is not visible and will not detract from the setting of the house and garden.
- Refers to Architect's comments which state that the proposal will retain certain elements and rectify others while completing the project, and will continue the use of a previously vacant and semi-derelict property which would have formed part of the setting of the house.
- Considers the development is acceptable subject to conditions.

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

4.2.2. Other Technical Reports

- **Area Engineer:** Requests file is referred to Architect, notes wall is not built, and notes no parking is proposed to serve the development.
- **Environment & Water Service:** No objections.
- **Senior Executive Architect:** Application seeks to retain certain elements and rectify others while completing the project. It will ensure the continued use. Proposal includes retention of much of the remaining structure.

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 who owns the eastern half of the dwelling. In summary:

- The proposal will lessen her privacy and enjoyment of her property.
- It will block natural light entering the rear of her property, as the drawings include a 1.8m high wall and double gates. The applicant's intention with this wall is unclear on the drawings and therefore the plans and proposals are misleading.
- The proposal represents back yard development of a residential house with access through her archway.
- Concerns with sewage which are also addressed further in Section 7 below.
- Concern that the property will be let and lead to people accessing the property through her archway without her permission. There may be right of way issues.
- Refers to unauthorised development of the residential unit to the rear of the coach house which is the subject of appeal ref. PL19.248175.
- Development contravenes conditions of earlier planning permission.

5.0 Planning History

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

- **OCC Reg. Ref. BR 1648:** Reinstatement of the roof over the existing coach house was granted permission in March 2011.
- **ABP Ref. PL19. 248175, OCC Reg. Ref. 16/437:** This file is for the retention of a residential unit and change of use to a garage/fuel shed. This appeal is concurrently before the Board.
- **UD 16/27:** A warning letter was issued, and the Planner's Report states that it was for non-compliance with condition of Planning Permission OCC Reg. Ref. 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 which include a large area to the rear of the subject 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. **Offaly County Development Plan 2014 – 2020**

Chapter 8 of the Plan refers to Development Management Standards. Section 8.6.15 refers to Family Flats/Granny Flats. The subject proposal is to complete refurbishment works for the development of the coach house to a residential dwelling. The Plan states:

The creation of a family flat, generically referred to as granny flats, to be occupied by a member of the occupant's family, is generally acceptable, provided it is not a separate detached unit, and it is possible to provide direct access to the remainder of the house. There shall be no permanent sub division of the garden/private amenity space. The flat shall not be let, sold or otherwise transferred, other than as part of the overall property and shall revert to being part of the original house when no longer occupied by the family member. The design should ensure that the flat forms an integral part of the main dwelling unit capable of reintegration for single family use and, from public view, retains the appearance of a single dwelling unit. Family flats are accepted in principle in urban and rural areas.

6.3. **Development Contribution Scheme 2014 - 2020.**

The Plan provides for charging for additional units created. It states: *'Where an existing residential unit is extended / converted to create an additional residential unit, or a stand-alone residential unit is constructed on the site of an existing residential unit e.g. an apartment or flat, the appropriate rate of contribution will be payable in respect of each additional residential unit erected'*.

6.4. **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 fact that the original permission had lapsed.
- The works include installing windows which directly look into her dwelling which impacts upon her privacy, will negatively affect the value of her property and was done without 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 18th Century and there is concerns 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 (PL19.248175) for retention of a residential unit and permission for change of use of same to a garage/fuel shed on the same site to the rear of the coach house. There are interconnected issues to do with residential amenities. 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
- Residential Amenities
- Sewerage service
- Appropriate Assessment

8.1. Principle of Development

The applicants are seeking permission to complete works to the coach house which they intend to use as a residential unit for a family member. The coach house forms part of the curtilage of the main dwelling which is a Protected Structure.

The main dwelling has been sub-divided but before that, the coach house would have been accessed through the archway to the east of the dwelling. The coach house would have housed workers in the past, so its use as a residential unit is not a new use, albeit, it has not been used in this manner for a long time. I also note that a

lot of the coach houses and other units to the rear of the neighbouring dwellings have been converted for use as residential dwellings.

The Offaly County Development Plan refers to Family Flats. It is noted that a Family Flat is generally acceptable, provided it is not a separate detached unit, and it is possible to provide direct access to the remainder of the house. By the very nature of the coach house, it is a separate detached unit. However, the Development Plan notes that Family Flats shall not be let, sold or otherwise transferred, other than as part of the overall property and shall revert to being part of the original house when no longer occupied by the family member. I consider that a condition to this effect should alleviate concerns of the appellant.

Having regard to the policies with respect to Granny/Family Flats and residential development in the Offaly County Development Plan, I consider that the use of the unit for residential purposes would substantially comply with the Plan.

I am satisfied that the refurbishment of the coach house will not detract from the Protected Structure and will in fact, make a positive contribution to its setting, subject to the use of appropriate materials as highlighted in the planning drawings. The refurbishment will be in accordance with the Birr Town Plan policies relating to Protected Structures.

In conclusion, the site is located in an area that is zoned for residential development, and the refurbishment of the coach house will make a positive contribution to the setting of the Protected Structure.

8.2. Residential Amenities

The appellant is concerned with a possible impact on her privacy with the refurbishment of the coach house and a possible impact on the value of her property. The coach house is located to the rear of the appellant's dwelling.

Vehicular access to the rear of the building is only possible through the archway which is on the appellant's side of the property. There is no direct vehicular means of access to the rear on the applicant's side.

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. 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' but does not explicitly raise an objection. It is unclear if the reference is made with respect to the fact that there is a 'right of way', and the refurbishment of the coach house and conversion to a habitable unit may affect that right of way, or if there is simply no 'right of way' at all.

The insertion of gates would allow for vehicular access to the refurbished coach house but also 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.

8.3. 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. I would consider that the proposal is in an urban location and therefore, will connect to the public infrastructure which is acceptable.

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 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, except as may otherwise be required in order to comply with the following conditions.

Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The existing dwelling and coach house shall be jointly occupied as a single residential unit and the coach house shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the coach house in the interest of residential amenity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. A schedule and appropriate samples of all materials to be used in the external treatment of the coach house to include rooflights, roofing materials, windows, and doors shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure an appropriate standard of development/conservation.

5. 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.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid

prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Ciara Kellett
Inspectorate

8th June 2017