



An
Bord
Pleanála

Inspector's Report PL27.248367

Development	Retention of side extension, new roof with dormer windows, over historic flat roofed ground floor extension.
Location	Side of Coach House Annexe, Delgany House, Delgany, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	16/856
Applicant	Barry Stanley
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Barry Stanley
Observer	Michael Gibbons
Date of Site Inspection	21/6/17
Inspector	Siobhan Carroll

1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of 0.52 hectares, is located to the north of Delgany Village. The site contains Delgany House which is a nineteenth century detached property. It is set in a large landscaped garden which is bounded by mature trees. The appeal site adjoins dwellings within the Dromont housing estate. The site is accessed off Capel Road to the east.
- 1.2. Delgany House and the subject coach house are served by a driveway which runs along the northern boundary of the site. The coach house is situated circa 10m to the north of the main dwelling and it is served by a wall courtyard.
- 1.3. The entire building has a length of 10m and there is a section which projects forward to the front by 2.5m. The subject extension is located to the northern side of the property and built above a previous extension to the coach house. The proposed extension features a hipped slate roof which is very similar to the other sections of roof. There are 2 no. dormer windows one to the front east facing elevation and one to the rear west facing elevation. There are 2 no. small rooflights one to the front and one to the rear elevation.

2.0 Proposed Development

- 2.1. Retention of side extension, new roof with dormer windows, over historic flat roofed ground floor extension to coach house.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for one reason;

1. Having regard to the nature and extent of existing development on the subject site, and the absence of any evidence that the coach house had been authorised by a grant of planning permission or was in existence and in use for residential purposes prior to the first day of October 1964 as a structure subdivided from the main dwelling, it is considered that the development for which retention has been sought would represent the consolidation of existing

development on site which has not been proven to be authorised. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report dated 6/9/16 – Further information was requested for the applicant to clarify the planning status of the existing development which appears to be a converted outbuilding subdivided from the original single planning unit, which may have been carried out without the benefit of planning permission.

Report dated 16/3/17 – Following the submission of further information the Planning Authority were of the opinion that no documentary evidence was provided to demonstrate that the structure benefited from a pre1964 use right. The retention of the extension in the absence of the legitimisation of the entire development would represent the consolidation of unauthorised development. Permission was recommended for refusal on that basis.

3.3. Third Party Observations

The Planning Authority received one submission/observation in relation to the application. The main issues raised are similar to those set out in the observation to the appeal.

4.0 Planning History

4.1.1. Reg. Ref. 15/343 & PL27.245053 – Permission was refused by the Planning Authority and refused on appeal for the retention of new pitched roof to replace flat roof, at upper ground level, to side of the Coach House annexe. Permission was refused for the following reason;

1. Having regard to the nature and extent of existing development on the subject site, and to the limited scope of the present application for retention (this is, stated to be for the retention of a pitched roof), and in the absence of any evidence that the original flat roofed single storey extension to the coach

house, upon which the roof and associated first floor accommodation has been constructed, had been authorised by a grant of planning permission or was in existence and in use for residential purposes prior to the first day of October 1964, the Board is not satisfied that the development for which retention has been sought would not represent the consolidation of existing development on the site which has not been proven to be authorised. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

4.1.2. **Section 5 Declaration – RL27.RL3224**

It was determined that that the said works consisting of consisting of the raising of the external walls and replacement of a flat roof with a pitched roof containing windows and the formation of first floor accommodation at the rear of the coach-house annexe at Delgany House, Chapel Road, Delgany, County Wicklow is development and is not exempted development.

5.0 **Policy Context**

5.1. **Development Plan**

The relevant Plan is the Greystones/Delgany & Kilcoole Local Area Plan 2013 - 2019. The site is zoned 'RE' Existing Residential with a stated objective 'to protect, provide for and improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located.'

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal was submitted by Barry Stanley on the 18th of April 2017. The main issues raised concern the following;

- The applicant states that the decision of the Planning Authority was unduly influenced by the objections received the application.

- The report referring to appeal case PL27.245053 is noted, specifically the Inspectors comments in relation to the design of the extension to the coach house.

“The maintenance of white walls and the natural slate roof are positive elements to the proposal and the dormer windows do not, I consider, detract from the overall quality of the building...The result is that the scale of the coach house has not excessively increase and the form remains more traditionalist than modernist. I conclude that the proposed development has not unreasonably detracted from the building.”

- This refers to the section of the coach house where the works are proposed for retention.
- The report referring to referral case RL27.3224 is also noted, specifically the Inspectors comments in relation to the works carried out to the coach house.

“I would be satisfied that it would constitute works for the maintenance, improvement or alterations which does not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.”
- The Board in their decision on PL27.245053 did not agree with opinion of the Planning Inspector that the planning authority had not presented sufficient information to support the claim that the proposed development would consolidate unauthorised development on site.
- The refusal issued by the Planning Authority cites one reason which states that the proposal “would represent the consolidation of existing development which had not proven to be authorised”.
- However, the appellant states that the same situation existing in 2001, 2002 and 2008 when the Planning Authority inspected the site.
- The site benefits from hundreds of years of established residential use. The report of the Senior Inspector in relation to the Section 5 Declaration PL27.RL3224 is cited where it is stated that “It would appear likely that historically the coach house was originally in residential use...occupied by staff employed at Delgany House.”

- The Inspector in assessing the appeal case PL27.245053 did not dispute the statement of the Senior Inspector in their report (PL27.RL3224) and reconfirmed the statement in his report.
- The appellant employed the services of Mr. Val O'Brien, MSCSI, MRICS to advise in relation to this history of the coach house. The report from Mr. O'Brien states,

“it is abundantly clear that the property has been in use for many years as a residence. In fact, it is considered opinion that this property would have been a residence most likely as ancillary to the main dwelling house going back to the original time of construction.”
- The coach house was constructed approximately 200 years ago in conjunction with the main dwelling. It has remained in the same ownership as the main house.
- The electricity supply to the coach house is directly connected to the main house and it is metered within the main house. The water supply and sewer connection is also directly connected to the main house as is the telephone cable.
- The 1908 OS maps clearly show the coach house in existence. Therefore, it is highly likely it was built concurrently with the main dwelling in the 19th Century. The map indicates that coach house served by a spur from the main driveway.
- The building was historically in use as staff quarters. The certificate of exemption provided for Lennon Heather Solicitors involved in the conveyancing of the property in 1996 is cited.
- The certificate relates to works described as “the restoration, upgrading and redecoration of the property”. The property “former staff quarters” known as the Coach House. Therefore, it is noted that at that time there was no conversion or change of use to the building but rather a refurbishment and continuation of use of “former staff quarters”.

- Therefore, on the balance of probability it is highly likely that the use was in existence for many years prior to 1964. This view was upheld by two separate Inspectors from An Bord Pleanála.
- Therefore, it can be concluded that the coach house is in residential use a use which existed pre 1964.
- The appellant contends that the Planning Authority has not presented any evidence which supports their assertions that the subject extension is contrary to the proper planning and sustainable development of the area.
- The Planning Authority did not assess the application as proposed.
- The extension has been built to integrate with the existing property in terms of design, materials and finishes.
- The appellant requests that the Board overturn the decision of the Planning Authority for the reasons set out above.

6.2. **Planning Authority Response**

- None received

6.3. **Observations**

An observation to the first party appeal was submitted by Gibbon & Associates on behalf of Mr. Michael Gibbons on the 15th of May 2017. The main relevant planning issues are as follows;

- The observer refers to the previous Board decision and also the enforcement history on site.
- No action was taken in relation to UD693. An enforcement notice was issued under UD3385.
- The observer raised the matter of the commercial use of the coach house.
- The observer notes the previous decision of the Board in respect of the retention of the new pitched roof to the upper ground floor to the side of the annexe to the coach house.

- In relation to the current application and appeal and having regard to the previous decision of the Board the observer considers that the onus of proof lies with the applicant regarding the use of the coach house and annexe for residential use prior to the 1st of October 1964.
- The observer considers that the Planning Authority has provided the applicant with sufficient opportunity to rectify the planning status of the unauthorised development.

7.0 Assessment

- 7.1. Permission is sought for the retention of side extension which includes a new roof with dormer windows over a historic flat roofed ground floor extension to the side of the coach house. The new roof is finished with slate which matches the existing roof of the coach house and serves to integrate the subject extension into the existing building.
- 7.2. The two dormer windows are relatively modest in scale. They have a traditional pitched roof finish and they do not breach the roof ridge. I consider that the original design aesthetic of the coach house has been maintained. Therefore, with regard to the design and scale of the subject extension I have no objection to the proposal.
- 7.3. The other matter of concern relates to the principle of the development. Under PL27.245053 (Reg. Ref 15/343) the Board refuse permission for the retention of new pitched roof to replace flat roof, at upper ground level, to side of the Coach House annexe. Permission was refused for the following reason;

Having regard to the nature and extent of existing development on the subject site, and to the limited scope of the present application for retention (this is, stated to be for the retention of a pitched roof), and in the absence of any evidence that the original flat roofed single storey extension to the coach house, upon which the roof and associated first floor accommodation has been constructed, had been authorised by a grant of planning permission or was in existence and in use for residential purposes prior to the first day of October 1964, the Board is not satisfied that the development for which retention has been sought would not represent the consolidation of existing development on the site which has not been proven to be authorised. The

development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

- 7.4. The current proposal for the retention of the side extension over the historic flat roofed ground floor extension was refused by the Planning Authority for the following reason;

Having regard to the nature and extent of existing development on the subject site, and the absence of any evidence that the coach house had been authorised by a grant of planning permission or was in existence and in use for residential purposes prior to the first day of October 1964 as a structure subdivided from the main dwelling, it is considered that the development for which retention has been sought would represent the consolidation of existing development on site which has not been proven to be authorised. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

- 7.5. The decision of the Planning Authority in relation to the current application goes further than the Board as they cited the absence of evidence in relation to the use of the coach house for residential purposes, whereas the Board referred to the lack of evidence in relation to the ground floor extension to the side of the coach house.

- 7.6. In relation to the matter of the use of the coach house the applicant states that it was constructed approximately 200 years ago in conjunction with the main dwelling, Delgany House and that it has remained in the same ownership as Delgany House. The applicant employed the services of Mr. Val O'Brien to advise him on the matter. The report from Mr. O'Brien states that *"it is abundantly clear that the property has been in use for many years as a residence. In fact, it is considered opinion that this property would have been a residence most likely as ancillary to the main dwelling house going back to the original time of construction."*

- 7.7. The reports of the Planning Inspectors in respect of the Section 5 declaration PL27.RL.3224 and the appeal case PL27.245053 reiterate this opinion. As stated in the Senior Planning Inspector's report for the referral case PL27.RL.3224 *"it is likely that historically the coach house was used as residential accommodation occupied by staff of Delgany house."*

- 7.8. Therefore, with regard to the use of the coach house for residential purposes, in my opinion it is feasible to conclude that a residential use was in existence prior to the 1st of October 1964. Although irrefutable evidence in this regard is not provided on file. The Board in their determination on the matter in the previous appeal did not specifically refer to the use of the entire coach house but rather they referred to the planning status of the original flat-roofed ground floor extension.
- 7.9. Having regard to the details contained on file and also the planning history of the site it would appear that the ground floor extension (former flat roof extension to the side) having been constructed circa 2001 is outside the statute of limitations in terms of enforcement proceedings. As per Section 157(4) of the Planning and Development Act 2000, as amended, action cannot be taken by the Planning Authority after seven years from the date of commencement of the development in respect of unauthorised development where no permission has been granted.
- 7.10. However, this does not mean that an unauthorised development becomes exempt from planning permission. If the development is unauthorised before the period expires it is still unauthorised after. This is the issue which was raised in the refusal issued by the Board under PL27.345053 that they were not satisfied that the applicant had demonstrated that the original flat-roofed ground floor extension was authorised and in the absence of such evidence the Board were not satisfied that the development for which retention was sought would not represent the consolidation of existing development on the site which has not been proven to be authorised.
- 7.11. The details and submissions on file have not refurnished any information in relation to the original flat-roofed ground floor extension to the side of the coach to indicate as required by the Board that it had been authorised by a grant of planning permission or was in existence and in use for residential purposes prior to the first day of October 1964. Therefore, on that basis I am not satisfied that the matter has been addressed and therefore the previous reason for refusal issued by the Board has not been overcome.
- 7.12. The observer to the appeal raised the matter of a commercial use at the coach house. This issue was addressed by the Inspector in his assessment of appeal case PL27.345053 where he was concluded that there was no evidence of a commercial

wood related business. Having inspected the site, I would concur with the reporting Inspector on that matter as there was no evidence of such a commercial use.

- 7.13. In relation to the issue of appropriate assessment, having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site, I am satisfied that 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.

8.0 Recommendation

- 8.1. Having read the submissions on file, visited the site, had due regard to the provisions of the Development Plan and all other matters arising, I recommend that permission should be refused for the following reason.

9.0 Reasons and Considerations

Having regard to the nature and extent of existing development on the subject site, and in the absence of any evidence that the original flat roofed single storey extension to the coach house, upon which the roof and associated first floor accommodation has been constructed, had been authorised by a grant of planning permission or was in existence and in use for residential purposes prior to the first day of October 1964, the Board is not satisfied that the development for which retention has been sought would not represent the consolidation of existing development on the site which has not been proven to be authorised. The development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.

Siobhan Carroll
Planning Inspector

27th of July 2017