



An
Bord
Pleanála

Inspector's Report PL15.248416

Development	Retention of an existing extension to the rear of a dwellinghouse & associated site works.
Location	Liberties, Carlingford, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	17/99.
Applicant(s)	Vincent McCornish.
Type of Application	Retention Permission.
Planning Authority Decision	Granted.
Type of Appeal	Third Party
Appellant	Patrick McShane.
Observer(s)	None.
Date of Site Inspection	26 th July 2017.
Inspector	L.W. Howard.

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	3
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Applicant Response	6
6.3. Planning Authority Response.....	12
6.4. Observations	14
6.5. Further Responses.....	14
7.0 Assessment.....	16
8.0 Recommendation.....	23
9.0 Reasons and Considerations.....	23
10.0 Conditions	23

1.0 Site Location and Description

- 1.1. The 0.1457ha application site is located adjacent the southern boundary of Carlingford Village. The site has boundary frontage directly onto the eastern side of County Road 62.
- 1.2. The site enjoys an elevated location above the village, with outlook westward away from Carlingford Lough, to the mountain.
- 1.3. The site consists of a single storey gable ended yellow brick dwellinghouse. A smaller cottage also exists to the front of the applicants dwellinghouse, sharing access off the CR62.
- 1.4. Contextual local development and land use comprises a public cemetery adjacent to the north, a single dwellinghouse adjacent to the south and a small incomplete, empty residential estate development adjacent to the southeast.

2.0 Proposed Development

- 2.1. The retention of the existing rear single storey domestic extension to the existing dwellinghouse, including – a living area, WC and utility room.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Planning permission granted, subject to 2no. Conditions.
- 3.1.2. In the context of the 3rd Party Appeal lodged, the following area considered relevant –
 - C2 all surface water to be disposed of within the site boundaries. Specifically, within three months, an ACO drain to be constructed at the existing site entrance, and a soakaway designed and constructed in compliance with BRE 365.

3.2. Planning Authority Reports

The report of the Deputy Planning Officer can be summarised as follows :

3.2.1. Design, Scale & Form

- As the rear extension to be retained, cannot be seen from the public road, there is no impact on the visual amenity of the area.
- The rear extension is small in scale, and satisfactorily integrates with the existing dwelling.
- No objection in principle to retention of the rear extension.

3.2.2. Impact on Adjoining Properties

- As constructed, the extension does not impact adversely on residential amenity.
- The extension does not reduce private open space to an unacceptable level.

3.2.3. Natura 2000 Sites

- The application site is not located within any of a proposed Natural Heritage Area, a Special Area of Conservation, or a Special Protection Area.
- Neither is the site connected by any ecological corridors.
- Therefore, there should be no significant impact on any Natura 2000 site.

3.2.4. Sanitary Services & Flooding Matters

- The application site is served with public water and foul sewerage services. Therefore, no concerns regarding public health.
- The site is not located within an area at risk of flooding, having regard to OPW Draft Risk Assessment Flood Mapping.

3.2.5. Roads & Parking

- The extension has no impact on the existing permitted access arrangements.
- However, as the existing entrance does not have the surface water aco-drain and soakaway, as required under Condition No.3(a) of **Reg.Ref.No.15/168**, a similar Condition requiring surface drainage to be included.

3.2.6. Summary

- The development does not adversely affect visual amenity, residential amenity, or public health, due to scale and nature.

3.2.7. Development Contributions

- Development Contributions are not applicable.

3.2.8. Conclusion

- The development is not unduly prominent and complements the existing dwelling.
- Recommend a grant of retention permission, subject to Conditions.

3.2.9. **Other Technical Reports**

None.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A single 3rd party submission received by the Planning Authority, from P. McShane – Liberties, Carlingford, Co. Louth.

3.4.2. The issues argued included :

- site notice not erected on the date stated
- non-compliance with Condition 2(b) of **Reg.Ref.No.15/168**
- non-compliance with Condition 3(a) of **Reg.Ref.No.15/168**
- no details of foul sewerage treatment submitted
- no details of surface water drainage submitted
- no shadow projections of the development provided

4.0 **Planning History**

Reg.Ref.No.10/59 Permission granted to Bridie Brennan (17/05/2010), for demolition of an existing derelict dwelling and replacement with a new dwelling and associated site development works, subject

to 8no. Conditions (see copy of Managers Order No. 231-10, and relevant drawings attached).

Reg.Ref.No.15/168 Permission granted to Vincey McComish (29/06/2015), for development consisting of alterations to an existing entrance and associated site development works, subject to 03no. Conditions (see copy of Managers Order No. 349/15, and relevant drawings attached).

5.0 Policy Context

5.1. Louth County Development Plan 2015 - 2021

Relevant provisions include (see copies attached) :

- The application site is located within Carlingford, a designated 'Level 3 Settlement'.
- Zoning Objective 'Residential (Existing)' – "To protect and / or enhance existing residential communities and provide for new residential communities"
- The principal permitted land use is residential development.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. 3rd Party Grounds of Appeal

6.1.1. Validity of the Planning Application Reg.Ref.No.17/99 :

The application was invalid on the following basis :

- Whereas the site notice states it was erected on the 14th February 2017, no site notice was erected on this date.
- No SUDS report was submitted for surface water discharge from the unauthorised extension.

- The extension for retention contains an additional W.C. and Utility area. No foul sewerage layout, calculations etc. have been submitted.
- Conditions attached to previous planning permissions granted, have not been fully complied with. No new planning permissions to be considered, until non-compliance issues have been addressed.

6.1.2. Planning History of the Site

Reg.Ref.No.10/59 – (demolition of existing derelict house and replacement with new house)

- The Conditions attached to this permission have not been fully complied with.
- In particular, the new house has been constructed much closer to the public road, and not 2.2m from the roadside boundary as shown in the application drawings.
- This now constitutes a major traffic hazard and endangers public safety. Consequently, visibility requirements from existing domestic entrances at this location have been restricted.

Reg.Ref.No.15/168 – (alterations to an existing entrance and associated site development works) :

- Condition No.5 under Reg.Ref.No.10/59 requires full visibility to Standard, prior to commencement of any further works on the site.
- Application Reg.Ref.No.15/168 should not have been validated, as Condition No.5 was never complied with. Application Reg.Ref.No.15/168 related effectively to an entrance that was non-compliant.
- Conditions attached to permission Reg.Ref.No.15/168 have not been fully complied with.
- Argue non-compliance by the applicant with the requirements set out in Condition 2(a), (b) and (c), as follows :
 - while a new wall has been constructed along the site roadside boundary, the old wall has been lowered and not removed in its entirety;
 - a level surface area not less than 250mm high, as required, is not evident on site;

- the existing kerbs have been replaced by new kerbs on the flat and constitute a traffic hazard.
- Public safety is endangered by this ongoing traffic hazard.
- A revised site plan is not evident on file as requested.
- An ACO Drain (or similar) at the entrance, and surface water discharge to a soakaway (designed and constructed to Standard), has never been constructed.

Reg.Ref.No.17/99 – (current application) :

- This current application makes no reference to the retention of works relating to non-compliance with Conditions attached to previous permissions Reg.Ref.Nos.10/59 and 15/168, and located within the application site curtilage.
- Having regard to the current application documentation :
 - No SUDS report was submitted for surface water discharge from the unauthorised extension.
 - The extension for retention contains an additional W.C. and Utility area. No foul sewerage layout, calculations etc. have been submitted.
 - Conditions attached to previous planning permissions granted, have not been fully complied with.
- Construction works to date are not in strict conformity with lodged plans and specifications.
- Condition No.2 requires compliance with site surface water drainage requirements, specifically construction of an ACO Drain (or similar) at the entrance, and surface water discharge to a soakaway (designed and constructed to Standard). A similar Condition was attached to Reg.Ref.No.15/168. To date the applicant has never constructed these works.
- The applicant has consistently ignored planning legislation and the Conditions attached to previous planning permissions granted.
The current application relates to the retention of an unauthorised extension.

The appeal submission demonstrates that this has been a consistent and repetitive approach by the applicant on this site. Argue “this is not in the spirit of sustainable and proper planning and development”.

- Point out the dwellinghouse is currently for sale. Having regard to the requirement that planning permission is in place, the applicant has been required to make an application for retention permission of the unauthorised works.

6.1.3. **Conclusion :**

- The 3rd party appellant has demonstrated how the current application, and previous applications within the site curtilage, contravenes proper planning procedures, planning permissions and compliance with Conditions attached to these permissions.
- The applicant’s non-compliance with Conditions of previous planning permissions have endangered public safety by reason of traffic hazard and unorderly development.
- These non-compliant works should have been addressed as part of the current application, as well as the threat posed to traffic safety and orderly development.
- The application is premature.
- It is inequitable that the applicant is able to build a structure “in total disregard of planning guidelines and then simply apply for retention”.
- Request the application be refused as it “clearly contravenes planning legislation and procedures”.

6.2. **Applicant Response**

6.2.1. **General Background :**

- The applicants have occupied the current house since 2000.
- 2002 – a front boundary wall was erected as exempted development.
- 2007 – commenced construction of the rear domestic extension for which retention permission is currently being applied for.

- At the time, applicant understood there was allowance for an additional 40m² to the rear of the property. Because of expressed intention to sell the property, the applicant was requested to obtain a certificate of compliance for the rear extension.
- Consequent of correct application of the exempted development provisions of the Planning Act, the floor area was determined as in excess of the allowed 40m². This required the current application for retention permission.
- Clarify –
 - the extension includes an additional wc and utility area
 - the house is connected to the main public sewerage system serving the local area
 - all additional works contained within the boundaries of the site

6.2.2. **Reg.Ref.No.10/59**

- Permission granted for a replacement dwellinghouse for the existing derelict dwelling located in the front garden.
- Acknowledge the only Conditions for which full compliance was not achieved were Conditions No.5 and No.6(b).
- Confirm that the works were never completed due to the economic downturn and the death of the dependent relative who occupied the replacement dwelling.
- The house was left unoccupied between 2012-2015.
- Confirm the outstanding Conditions were enforced as part of the later planning application **Reg.Ref.No.15/168**.
- Confirm outstanding works now complete. This is acknowledged by the Planning Authority in a letter dated 13th December 2016 (Planning Authority 'letter of compliance' attached to applicant's response submission at Appendix A).
- Argue that allowing "a certain tolerance of discrepancy" consequent of using Ordnance Survey maps, the location of the replacement dwelling is in substantial compliance with the location shown in the site layout plan

submitted. Consideration in this regard, was also given so as to not compromise the integrity of the original dwellinghouse on site.

- The house location does not obstruct sightlines. Therefore, the 3rd party appellant's argument that the house location is a major traffic hazard and endangers public safety, must be dismissed.
- Comparatively, the sightlines available from the entrance to the 3rd party appellant's 20no. dwellinghouse development are restricted by the existing wall to the front of the adjoining property. Rather, this constitutes a major traffic hazard, endangering public safety.
- Confirm that applicant had a sightline agreement with neighbour in order to splay the wall, in so far as required sightline visibility can be achieved. These works were completed at the applicants cost (photograph included at Appendix A).

6.2.3. **Reg.Ref.No.15/168**

- With reoccupation of the **Reg.Ref.No.10/59** dwellinghouse in 2015, the entrance required modification as well as works to the front boundary.
- As part of this application **Reg.Ref.No.15/168** the Planning Authority sought compliance with the completion of works not achieved as part of previous **Reg.Ref.No.10/59**. These were duly completed as required. The Planning Authority letter at Appendix A is evidence of their opinion that required, satisfactory compliance has been achieved by the applicant.
- Installation of an Acodrain at the site entrance was also required, to prevent surface water runoff onto the public road. In addition to construction of driveway surfaces with a gravel / stone surface, through which surface water infiltrates and absorbs into underlying subsoils, installation of the Acodrain has been completed, in accordance with Condition No.3(a) and 3(b) (photograph included at Appendix A).
- The proposed development will not result in any additional surface water runoff onto the public road.

6.2.4. **Validity of application Reg.Ref.No.17/99**

- The site notice was erected on the 14th February 2017

- Should there have been an issue with the site notice, the Planning Authority would have deemed the application to be invalid.
- The Planning Officers report confirms that the site notice was indeed inspected, and that the Planning Authority had no issue in this regard.

6.2.5. **Conclusion :**

- The 3rd party appeal relates to several issues which effectively do not comprise part of what is being applied for under currently under **Reg.Ref.No.17/99**.
- Should permission be granted, there would be no unauthorised development within the site boundary. Nor would there be any outstanding Conditions for compliance.
- Request the Board dismiss the 3rd party appeal on the grounds that all the appeal issues argued relate to matters which have already been addressed by the Planning Authority, and are not relevant to the retention applied for.

6.3. **Planning Authority Response**

Further to the Planning Officers report – 03/04/2017 :

6.3.1. **Validity of Planning Application Reg.Ref.No.17/99**

- These issues were addressed in the Planning Officers report.

6.3.2. **Planning History of the Site**

Reg.Ref.No.10/59 –

- The dwellinghouse referenced by the 3rd party appellant, granted under this permission, is not the same dwellinghouse which is the subject of the current application **Reg.Ref.No.17/99 / PL15.248416**.
- Non-compliance with Conditions attached to **Reg.Ref.No.10/59** may be dealt with by way of ‘enforcement’ under Part VIII of the Planning and Development Act 2000 (as amended)
- Non-compliance with these Conditions does not form part of this appeal.

Reg.Ref.No.15/168 –

- The application was made valid.
- Non-compliance with Condition 5 of **Reg.Ref.No.10/59** was addressed via Condition 2(a) of the permission granted dated 29th June 2015.
- Conditions 2(b) and 2(c) were dealt with through Planning Compliance.
- Letter dated 13th December 2016, confirmed compliance with Condition 2(a), 2(b) and 2(c) of **Reg.Ref.No.15/168**.
- Construction of the ACO Drain and surface water soakaway as required by Condition 3(a) under **Reg.Ref.No.15/168**, has been included as a Condition attached to the permission granted under **Reg.Ref.No.17/99**. This can be addressed through the appropriate Planning Compliance or Planning Enforcement channels as necessary.

Reg.Ref.No.17/99 –

- Clarify that no reference is made to non-compliance with previous Conditions, as the current application relates to “retention of an existing extension to the rear of a dwellinghouse”, as per the submitted description of the proposed development. The current application was assessed on these merits.
- The three main concerns argued by the 3rd party appellant were addressed in the Planning Officers report as follows :
 - the details of surface water drainage could be Conditioned as part of any grant of planning permission.
 - the development has an existing connection to public sewer.
 - a letter on case file **Reg.Ref.No.15/168** confirmed that Condition 2(b) has been complied with. Condition 3(a) was subsequently Conditioned via the grant of permission under **Reg.Ref.No.17/99**, in order to address this matter.
- Should the applicant ignore the Conditions attached to the current permission **Reg.Ref.No.17/99**, this can be addressed through Planning Enforcement

6.3.3. Conclusion

- Request the Board uphold the Planning Authority decision to grant planning permission.

6.4. Observations

None.

6.5. Further Responses

6.5.1. 3rd Party Appellant response to Applicant :

- 3rd party appellant disagrees that all Conditions attached under **Reg.Ref.No.15/168** have been fully complied with. Works to comply with these Conditions were never fully completed. The applicant's Appendix A submitted including photographs of the ACO Drain, which was installed after the 3rd party appellant's initial submission.
- re. the dwellinghouse permitted under **Reg.Ref.No.10/59** :
 - Suggestion that Ordnance Survey Maps are responsible for the constructed house location much closer to the road, than that granted, is ridiculous.

Rather, a site survey is required prior to preparation of planning application documentation. Detailed site layout drawing is required, as part of planning application documentation, to prevent ambiguities arising.

Ordnance Survey scale drawings are only required for site location maps.
 - Concern regarding the applicant's argument that the substantial separation distance between the dwelling granted under Reg.Ref.No.10/59, and the original dwellinghouse, was in order to protect the integrity of the original dwellinghouse.

On the contrary, no concern regarding such integrity was demonstrated by the applicant, when the rear extension was constructed without planning permission.
 - Relocation of the Reg.Ref.No.10/59 house has constituted a major traffic hazard and endangers public safety. Consequently, visibility requirements from existing domestic entrances at this location have been restricted.

- re. alleged 3rd party appellant's application for 20no. dwellinghouses (to the South East) :
 - This is untrue.
 - Rather, the application referenced under Reg.Ref.No.15/525 was made by Belmont Lawn Dev. Ltd., a company with which the 3rd party appellant has no association.
 - All details regarding composition of the membership of the applicant company are available on public files.
- re. required modifications to the site entrance :
 - A planning application was lodged. Details indicated sightlines to adjoining properties as impeded, particularly the adjacent Reg.Ref.No.15/525 application site. This permission is expired, the property now regarded as an unfinished housing estate. If unconditional modifications to the applicant's entrance had been granted, "a sight line agreement would have been required by Belmont Lawn Ltd. to make a planning application to complete the unfinished housing estate".
- **Conclusion :**
 - The current and previous applications on this site contravene proper planning procedures, planning permissions and compliance with Conditions attached thereto.
 - 3rd party appellant has no objection in principle to a small rear extension. However, Conditions attached to previous permissions granted have not been complied with, thereby "endangering public safety by treason of traffic hazard and disorderly development".
 - The non-compliant works should have comprised part of the current application, "in order to deal with the non-compliance issues and the endangerment posed to traffic safety and orderly development".
 - Request that the application is refused, on the grounds that it clearly contravenes planning legislation and procedures.

6.5.2. 3rd Party Appellant response to Louth County Council :

- Notwithstanding the clarification by the Planning Authority, both the dwellinghouse constructed under Reg.Ref.No.10/59 and that the subject of the current application Reg.Ref.No.17/099, are part of the same site and share a common access.
- 2(a) 2(b) 2(c) have not been fully complied with for the following reasons :
 - the entire wall frontage has never been demolished and setback behind sightlines. It was lowered. It exceeds 250mm in height
 - the roadside edge kerb was removed & replaced with a new raised kerb, in the same location.
 - a revised layout plan was never submitted.
- The ACO Drain was only constructed recently (ie. after 3rd party submissions). Challenge the Planning Authority comment that the applicant will face planning enforcement should Conditions attached to the current permission decision (Reg.Ref.No.17/099) be ignored. Rather argue, the applicant is being continually granted planning permission without the Conditions attached to previous permissions on site, not being complied with.

6.5.3. **Planning Authority response to Applicant :**

No further comment in relation to this application.

7.0 **Assessment**

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. The issue of appropriate assessment also needs to be addressed. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application.

The relevant planning issues relate to :

- Principle and Location of the proposed development.
- Visual Amenity Impact / Streetscape.
- Residential Amenity Impact.
- Road Access and Traffic Safety.

- Services Infrastructure.
- Site Notice.
- Appropriate Assessment.

7.2. Principle and Location of the proposed development

- 7.2.1. The site is zoned “Residential (Existing)”, with the objective to protect and enhance existing residential communities and provide for new residential communities. The applicable zoning matrix designates residential land use as being the “principal permitted land use” within the zone. The “Residential (Existing)” zoning objective seeks to ensure that any new development in existing areas, inclusive of domestic residential extensions, would have a minimal impact on and enhance existing residential amenity locally.
- 7.2.2. Having regard to the discussion below, I believe satisfactory compliance with the “residential (existing)” zoning objective exists, and that retention of the existing rear domestic extension would be in accordance with the proper planning and sustainable development of the area.

7.3. Visual Amenity Impact / Streetscape

- 7.3.1. I have taken note of the established, contextual scale and pattern of residential development along the CR62, passed the application site. At this southern edge of Carlingford Village, this pattern is historic and low density, comprising ad hoc single houses. The exception however, is the incomplete small residential estate to the rear / east of both the application site and the 3rd party appellant’s property. What is clear in my view, is that as one moves along the CR62, no reasonable visibility is possible at all, of the rear of any of the houses, and including and specifically the rear of the application site.
- 7.3.2. In itself I believe that as illustrated in both the photographs attached taken at the time of physical inspection and in the architectural drawings submitted, the subordination of the existing single storey rear domestic extension to the existing dwellinghouse, together with consistency in the use of materials, colouring and finishes, will ensure

the modest increase to the rear elevation width is not obviously noticeable from the CR62 road frontage.

- 7.3.3. From the rear, intervisibility is restricted to the rear elevations and rear yards / gardens of surrounding properties, of which there are only few and which all appear compliant with County Development Plan 2015-2021 Standards. In fact, I believe that having regard to the variance in ground surface level to the rear of the 3rd party appellant property, that no windows, doors or other type openings exist in the N-facing façade of the 3rd party appellant's house onto the application site driveway, the visibility obstruction provided by the slatted wooden fence along the 3rd party appellant's north-eastern site boundaries, the existing rear extension is not visible to the 3rd party appellant at all.

The only reasonable intervisibility possible, is from the 1st floor rear windows of the adjacent incomplete and empty small residential estate development. However, this intervisibility is marginal and oblique at best, and each of the developments are compliant with relevant County Development Plan 2015-2021 Standards.

Accordingly in my view, the existing rear domestic extension is not disproportionately visually prominent or obtrusive to adjacent and nearby residents, when viewed from the rear.

- 7.3.4. Having regard to the architectural design details submitted, the retention of the existing single storey rear domestic extension, will have no disproportionate impact on the established character & streetscape of the local Liberties neighbourhood generally, and of adjacent properties specifically, and subject to relevant Conditions, is in accordance with the proper planning and sustainable development of the area.

7.4. Residential Amenity Impact

- 7.4.1. Having regard to all of the information available, and to my observations at the time of physical inspection, I am of the view that the proposed retention of the existing single-storey rear domestic extension, will have no serious, or disproportionate negative impact on the prevailing residential amenity in the area generally, and of the adjacent 3rd party appellant specifically. In this regard, I have given consideration to potential threats to residential amenity consequent of :

- visual obtrusion : see as discussed at 7.3 above.

- loss of natural light or overshadowing : Application site, and the single storey rear extension specifically, is located to the north of the 3rd party appellant dwellinghouse. No reasonable threat of loss of natural light by the 3rd party appellant, or overshadowing, exists. I share the Planning Authority view that there is no requirement for shadow projections to have been submitted by the applicant.
- overlooking or freedom from observation : Two modest windows illuminating the existing living area, exist in the S-facing elevation wall of the existing rear extension. No windows, doors or other type openings exist in the N-facing façade of the 3rd party appellant's house, fronting directly onto the application site driveway, diagonally opposite the applicants rear extension. Intervisibility obstruction is also provided by the existing slatted wooden fence along the 3rd party appellant's north-eastern site boundaries.
- noise : no increase at all above that currently characterising domestic residential use of the application site, must reasonably be expected.
- on-site domestic private amenity / leisure space : both adequate and usable private amenity space has been retained to the rear of the application site. Nor will any negative impacts result on adjacent rear domestic amenity spaces, in compliance with County Development Plan 2015-2021 policy and Standards.
- separation distances between side walls of houses : generous separation distances, enabled by the applicants driveway access, are retained in compliance with relevant Standards, enabling for adequate maintenance, circulation and access.
- in situ views and outlooks : no designated views exist locally. Nor will the 3rd party appellant's outlook westward onto the mountain, be impacted at all.
- on-site car parking : adequate onsite car parking space exists, in compliance with County Development Plan 2015-2021 Standards. No increased need for such space is generated by the retention of the existing rear extension.
- access and traffic safety : the existing dwellinghouse is already served with access onto the CR62. No additional traffic generation will result from the retention of the existing extension.

7.4.2. Accordingly, I believe the existing domestic rear extension proposed for retention, is satisfactorily compliant with the Zoning Objective 'Residential (Existing)', and

accordingly would be in accordance with the proper planning and sustainable development of the area.

7.5. Road Access and Traffic Safety

- 7.5.1. I affirm the existing rear single storey domestic extension, proposed for retention, with existing direct vehicular and pedestrian access onto the CR62, the generous provision of on-site car parking space capacity to Standard, and consequentially with no obvious need for on-street car parking, to be satisfactory from a traffic safety point of view. These requirements are also generously accommodated for the existing cottage (ie. **Reg.Ref.No.10/59**), located in front of the applicants dwellinghouse.
- 7.5.2. Notwithstanding, a primary concern argued by the 3rd party appellant, is that the applicants sustained non-compliance with Conditions attached to previous planning permissions **Reg.Ref.No's.10/59** and **15/168**, have endangered public safety by reason of traffic hazard and unorderly development. This argued non-compliance inhibits the Planning Authority's capacity to consider the current retention application by the applicant.
- 7.5.3. In response, I distinguish that the cottage development referenced by the 3rd party appellant granted under **Reg.Ref.No.10/59**, is not the same dwellinghouse owned by the applicant, which is currently the subject of the retention permission application under **Reg.Ref.No.17/99**, for the rear domestic extension.
- 7.5.4. Contrary to the arguments made by the 3rd party appellant, I share the Planning Authority view that argued non-compliance with Conditions attached to **Reg.Ref.No.10/59**, is best dealt with separately from the current application for retention, by way of 'enforcement' under Part Viii of the Planning and Development Act 2000 (as amended). Such 'enforcement' of argued outstanding compliance with previous Conditions, falls within the jurisdiction of the Planning Authority.
- 7.5.5. Further in this regard, I am inclined to reference the Planning Authority letter dated 13th December 2016 re. **Reg.Ref.No.15/168** as noteworthy, in as much as the letter addressed to the current applicant clearly states – "Condition 2(a), 2(b) and 2(c) of Planning Reference No.15/168 are considered to be acceptable and complaint". I also point out that this permission granted to the applicant under **Reg.Ref.No.15/168**, was for development consisting of alterations to the existing

entrance, particularly consequent of **Reg.Ref.No.10/59**, and associated site development works.

- 7.5.6. Accordingly, I conclude the 3rd party appellant's arguments against the proposed retention of development, on the grounds of endangerment to public safety by reason of traffic hazard and disorderly development, cannot be sustained.

7.6. **Services Infrastructure**

- 7.6.1. Located within Carlingford Village, the applicant's property is served with public water and foul sewerage services. In this regard I share the Planning Authority view, that no obvious concerns exist regarding threats to public health, consequent of the proposed retention of the existing rear extension. Neither is the site located within an area at risk of flooding, having regard to OPW Draft Risk Assessment Flood Mapping.
- 7.6.2. The 3rd party appellant argues initially that consequent of **Reg.Ref.No.15/168**, an ACO Drain (or similar) at the entrance, and surface water discharge to a soakaway (designed and constructed to Standard), has never been constructed in compliance with Condition 3(a) and 3(b) thereof.
- 7.6.3. In the Planning Officers report, I note that they also state that the existing entrance does not have the surface water ACO-Drain and soakaway, as required by previous Condition 3(a). I note the Planning Authority's written confirmation of this directly with the applicant, via the letter dated 13th December 2016 stating that "... Condition Nos. 3(a) and 3(b) are still outstanding and are not deemed to be complaint". However, their approach to resolution, is that a similar Condition requiring surface drainage be included with any grant of retention permission made by the Planning Authority. In my view, whilst this outstanding surface water drainage issue could also have been addressed directly by the Planning Authority, outside of the scope of the current retention application by way of 'enforcement', this approach is pragmatic, enabling and reasonable.
- 7.6.4. I note the applicant's subsequent response thereto, clarifying that in addition to construction of driveway surfaces with a gravel / stone surface, through which surface water infiltrates and absorbs into underlying subsoils, installation of the ACO

Drain has been completed, in accordance with Condition No.3(a) and 3(b). Photographs in this regard were included at Appendix A of the applicant's response. This was clearly apparent at the time of my own physical inspection of the site (see attached photographs).

- 7.6.5. In the response submission to the applicant's response to the appeal, the 3rd party appellant asserts that the ACO Drain was only constructed recently, after the 3rd party submissions. I do not believe this to be a material consideration.
- 7.6.6. Clearly in my view, and subject to full compliance with relevant Conditions attached, retention of the existing single storey rear domestic extension, will not result in any additional surface water runoff onto the adjacent CR62 public road.
- 7.6.7. I am satisfied that the proposed retention of development will be adequately serviced with water supply, wastewater and surface / storm water infrastructure, in accordance with the proper planning and sustainable development of the area.

7.7. Site Notice

- 7.7.1. I note the 3rd party appellants' argument with regard to the public Site Notice.
- 7.7.2. In response, I have had regard to the Planning Authority's processing of the application, and validation of site notice, as being satisfied that satisfactory compliance has been achieved. I noted what remained of the site notice at the time of my own site visit. I also point out that notwithstanding their arguments, the 3rd party appellant's rights have not been compromised. Clearly, he was able to lodge a 3rd party objection with the Planning Authority, and subsequently the 3rd party planning appeal with An Bord Pleanala.
- 7.7.3. Accordingly, I believe the 3rd party appellant's arguments against the proposed retention of development in this regard, cannot be sustained.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development for retention, to the location of the site within a serviced urban environment, and to the separation distance to any 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.

8.0 Recommendation

8.1. I recommend that planning permission be granted for the reasons and considerations as set out below.

9.0 Reasons and Considerations

9.1. Having regard to the zoning Objective “Residential (Existing)” for the area as set out in the Louth County Development Plan 2015-2021 and the pattern of residential development in the area, it is considered that, subject to compliance with the Conditions set out below, the proposed retention of development would be in accordance with the provisions of the Development Plan, would not seriously injure the amenities of the Liberties neighbourhood or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed retention of development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained 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 extension proposed for retention, shall be jointly occupied as a single residential unit, and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason : In the interest of clarity and to restrict the use of the extension in the interest of residential amenity.

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

Reason : In the interest of public health.

4. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwellinghouse, without a prior grant of planning permission.

Reason : In the interest of residential and visual amenity, and in order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwelling.

L.W. Howard
Planning Inspector

19th August 2017