



An
Bord
Pleanála

Inspector's Report ABP- 300366-17

Development

1. Retention and completion single storey extension to rear of dwelling, and
2. Permission to decommission existing septic tank & construct new proprietary treatment unit, revised entrance, and ancillary site works.

Location

Billis, Virginia, County Cavan

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

17/401

Applicant(s)

Diego and Karen Daly

Type of Application

Retention & Permission

Planning Authority Decision

To grant

Type of Appeal

Third Party

Appellant(s)

I. Sheridan and A. Lynch

Observer(s)

None

Date of Site Inspection

21st February 2018

Inspector

D. M. MacGabhann.

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1.0 Site Location and Description

- 1.1. The appeal site is located c.6km to the north west of Virginia, in the townland of Billis, Co. Cavan. It is situated immediately south of the N3 in a rural area and comprises a single storey, semi-detached residential property.
- 1.2. The property on the appeal site is unoccupied and has been partly renovated and extended. Immediately adjoining it, to the west, is a semi-detached single storey, residential property. It has been extended to the rear, with the extension offset by c.4m from the shared boundary wall. Both properties have large rear gardens that slope away from the dwellings to the south west.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - The retention and completion of a single storey extension to the rear of the existing semi-detached dwelling, and
 - Permission to decommission the existing septic tank and to construct a new proprietary effluent treatment unit and percolation area; revised entrance and complete all ancillary site works.
- 2.2. The application documentation includes a Site Assessment Report (and Site Characterisation Form), which indicates that ground conditions are suitable for a proprietary effluent treatment unit and percolation area.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. On the 6th November 2017 the planning authority decided to grant permission for the development subject to 13 conditions. Most are standard and the remainder are as follows:

- Condition nos. 5 to 10 set out detailed requirements in respect of the proposed entrance to the site (including the management of surface water and roadside drainage).
- Condition no. 12 requires the sewage disposal system to be installed and operated in accordance with EPA's Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses.
- Condition no. 13 requires that all wells be located in accordance with the relevant minimum distance as per the document 'Groundwater Protection Schemes – Groundwater Protection Responses for On-site Wastewater Systems for Single Houses' (Appendix B of the above EPA Code of Practice).

3.3. **Planning Authority Reports**

Planning Reports

- 3.3.1. The Planning Officer's report refers to the principle of the development, relevant policies in the Cavan Development Plan 2014 – 2020, the planning history of the site, submissions and reports made. It considers the extension to be moderate in scale (height and length), acceptable in terms of residential amenity (impact on adjoining property), to comply with the EPA's guidelines for the treatment of effluent and acceptable in terms of traffic safety (i.e. sightlines on the N3).
- 3.3.2. Overall it is considered that the development will be an improvement to the site, bring a vacant dwelling back into use and will comply with relevant Objectives of the County Development Plan. It recommends granting permission for the development subject to 13 conditions.

Other Technical Reports

- 3.3.3. There are no technical reports on file. However, the Planning Report refers to a report by the Area Engineer which stated that the site is located on a high speed section of the N3, there is an existing agricultural entrance to the property and sight splays are acceptable in both directions.

3.4. Prescribed Bodies

- 3.4.1. TII, in their letter to the planning authority of the 29th September 2017, states that they have no objections to the proposed development.

3.5. Third Party Observations

- 3.5.1. There is one third party observation on file, from the owner of the adjoining property. It raises similar matters to those raised in the appeal, as follows:

- Development impacts on existing boundary wall and sheds, could overhang observer's property and be structurally unsound.
- Style of roof is inconsistent with adjoining property.
- Overshadowing of property and impact on light to kitchen.
- Compliance with Building Regulations.
- Development does not comply with exempted development provisions.
- Site notice not erected when stated (14th September) but one month later.
- Applicants are not the owners of the property (as stated in application form).

4.0 Planning History

- 4.1. On file there is reference to the following planning applications in respect of the site:
- 17/380 – Application by K. and D. Daly to retain and complete a single storey extension to the rear and permission to decommission the existing septic tank and construct new proprietary treatment unit and percolation area and complete all ancillary site works. Application incomplete.
 - 16/426 – Application by K. and D. Daly, as above. Application withdrawn.
 - 16/414 – Application by K. and D. Daly, as above. Application withdrawn.
 - 99/1583 – Permission granted to G. Maughan to alter and extend existing cottage.
 - 84/14997 – Permission granted to R. Caldwell to erect extension to house.
 - 82/13464 – Permission refused to N. Bell for erection of dwelling house.

5.0 Policy Context

5.1. Development Plan

5.1.1. The appeal site lies within the administrative area of the Cavan County Development Plan 2014 to 2020. It is situated in a rural area under 'Strong Urban Influence' to the north of Virginia (a designated Tier 2 Large Town). Extensions to dwellings are dealt with in Section 10.3.3 and 10.14.4 of the Plan, which require:

- The design and layout of extensions to houses to have regard to the amenities of adjoining properties, particularly as regards sunlight, daylight and privacy,
- The character and form of the existing building to be respected and external finishes and window types to match existing,

5.1.2. In particular, policy **DMO10** states that '*extensions to dwellings which are considered to interfere with the character of the dwelling or overwhelm it by virtue of their size and design shall not be permitted in rural locations*'.

5.1.3. Section 10.14.8 deals with vernacular rural buildings and replacement dwellings and sets out the following policies:

- **DMO15** *To promote the viable re-use of vernacular dwellings without losing their character and to support applications for the sensitive restoration of disused vernacular or traditional dwellings.*
- **DMO16** *To encourage and facilitate the appropriate refurbishment of existing housing stock in rural areas and in certain limited cases the replacement of existing dwellings.*
- **DMO17** *..assess applications for refurbishment and/or replacement of existing housing stock in rural areas, having regard to the following criteria.... That in the case of refurbishment and extension proposals, that the scale and architectural treatment of proposed works are sympathetic to the character of the original structure and the surrounding area including adjoining or nearby development.*

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is >10km from any sites of nature conservation interest (see attachments).

6.0 The Appeal

6.1. Grounds of Appeal

The adjoining property owners, I. Sheridan and A. Lynch, make the following objections to the proposed development:

- Unauthorised development encroaches onto appellant's property.
- Applicants do not own the property. Planning application is therefore void.
- Site notice not erected when claimed to be (one month later).
- Overshadowing of appellant's property, loss of light to kitchen. Extension is a storey and a half/attempted double height. Appellant's extension to their own property was removed from shared boundary wall and does not give rise to overlooking.
- Failure to insulate appellant's attic in property and ingress of water to appellant's property.
- Water trap between wall of extension and boundary wall and risk of water ingress to appellants' property.
- Style of roof is inconsistent with original style. Roof should be reduced to single storey and be consistent with existing extensions or other properties in the area.
- Incongruous extension impacts negatively on market value and residential amenity of appellants' property.
- Development constructed in a haphazard manner and is not in compliance with Building Control Act 1990 and associated regulations. It does not have the benefit of a Commencement Notice or a Supervision Certificate.

6.2. Applicant Response

- 6.2.1. The applicant states, in response to the appeal, that the property is in the process of being legally transferred to the applicant, Karen Daly, from her grandfather (solicitors letter attached).

6.3. Planning Authority Response

- 6.3.1. In their letter to the Board of 14th December 2017, the planning authority state that the matters raised in the appeal were previously addressed in the planning authority's assessment of it, or are outside the consideration of the planning application.

6.4. Observations and Further Responses

- 6.4.1. There are no observations or further responses on file in respect of the appeal.

7.0 Assessment

- 7.1. Having regard to the nature of the proposed development, policies of the current Cavan County Development Plan which generally support the development of residential extensions, and my inspection of the appeal site, I am satisfied the appeal relates solely to matters raised by the appellant, namely:

- Validity of the planning application.
- Impact on residential amenity (including overlooking, overshadowing and visual impact).

- 7.2. I note the Groundwater Protection Response in respect of the site (R1 – acceptable subject to normal good practice), the conclusions of the site assessment on file and the location of the effluent treatment system >15m down gradient of the wells serving the appeal site and the adjoining property. I would accept, therefore, that the appeal site is capable of accommodating an on-site waste water treatment system (secondary treatment system and soil polishing filter).
- 7.3. The appellant argues that the proposed development encroaches onto the appellant's property, is resulting in water ingress into their attic and that the

development does not comply with Building Control requirements. These matters all fall outside the scope of the appeal and are properly dealt with by other codes (i.e. they are legal issues or matters which fall under the Building Control Act, 1990, as amended and associated regulations).

7.4. Validity of the Planning Application

- 7.4.1. The planning authority is required, by statute, to validate a planning application coming before it. I note that they have done so and that the planning officer's report specifically refers to a site notice on site at the time of site inspection. I would further comment that the purpose of the public notices has been served as the appellant has been made aware of the proposed development.
- 7.4.2. I also draw the Board's attention to the applicant's response to the appeal in which it is stated that the site is being transferred from the landowner (grandfather) to the applicant (grand-daughter and husband). I consider, therefore, that the applicant has demonstrated sufficient legal interest in appeal site to make the planning application.

7.5. Impact on Residential Amenity

- 7.5.1. The proposed development comprises the extension of the existing dwelling on the appeal site. The original property appeared to run contiguous to the adjoining property, with a rear extension that was offset from the shared party wall to the rear of the semi-detached properties. The existing dwelling, to the west of the appeal site, has also been extended to the rear. This extension is offset from the shared boundary wall by c. 4metres.
- 7.5.2. The proposed development proposes a single storey extension, with sloped roof to the rear of the property, immediately adjoining the shared boundary wall. No issues of overlooking arise given the absence of windows in the western elevation of the extension.
- 7.5.3. Further, I would have no issues, in principle, with the slope of the roof over the extension area, given its generally low profile and lack of visibility from the front of the property. The appeal site and the adjoining property are generally removed from

other residential development and there is no clear architectural pattern in the area regarding rear extensions.

7.5.4. Notwithstanding, the higher roof over the rear extension, lying in close proximity to the kitchen of the adjoining property, encroaches on and dominates the outlook from the adjoining property, when viewed from within the kitchen and from the external yard area. Further, the extension, by virtue of its proximity of the adjoining development impacts on sunlight reaching the kitchen window.

7.5.5. The current Cavan County Development Plan clearly states that '*the design and layout of extensions to houses should have regard to amenities of adjoining properties particularly as regards sunlight, daylight and privacy*' (section 10.3.3.). I do not consider that the proposed development has had sufficient regard to the amenity of the adjoining property and I consider that the extension should be off set from the shared boundary wall by a similar distance to the rear extension of the adjoining property i.e. c.4m. If the Board are minded to grant permission for the development, this matter could be dealt with by condition.

7.6. **Other Matters**

7.6.1. I note that the planning authority's 5th condition sets out details a number of requirements in respect of the entrance to the site. There are no issues, in principle, with regard to the attainment at the existing entrance to the site and the Board may wish to deal with this matter, also by condition, but requiring the applicant to agree such details with the planning authority.

7.7. **Appropriate Assessment**

7.7.1. Having regard to the nature, scale and form of the proposed development, which includes proposals to upgrade the existing septic tank system, its location in a rural area at substantial distance from the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that retention and permission is granted for the proposed development subject to condition requiring revised plans to be submitted with the single storey rear extension offset from the shared boundary wall between the two semi-detached properties.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the policies and objectives of the Cavan County Development Plan 2014 to 2020, which require residential extensions to have regard to the amenity of adjoining properties and the nature, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area and would not be inconsistent with the character of surrounding development. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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. Prior to the commencement of development, the applicant shall submit to the planning authority for written agreement:
 - a. Revised plans of the rear extension, indicating the western elevation off set from the shared boundary wall by 4m. The relocation of

displaced space, if necessary, shall be provided to the rear of the existing dwelling.

- b. Detailed arrangements in respect of the entrance to the site.

Reason: In the interest of visual amenity and traffic safety.

- 3. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

- 4. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

- 5.
 - a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
 - b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

- 6.
 - a) The proposed effluent treatment and disposal system shall be

located, constructed and maintained in accordance with the details submitted to the planning authority on the 20th day of September 2017, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 7. 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.

Deirdre MacGabhann
Planning Inspector

12th March 2018