



An
Bord
Pleanála

Inspector's Report ABP-300467-17

Development	Demolish warehouse buildings, construct 2-storey dwelling, improve access, new boundaries & site works.
Location	Crooked Street, Callystown, Clogherhead, County Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	17/216
Applicant(s)	Patrick & Maura Sullivan
Type of Application	Appeal
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	John & Elizabeth Whelahan
Observer(s)	None
Date of Site Inspection	7 th May 2018
Inspector	Karla Mc Bride

1.0 Site Location and Description

- 1.1. The appeal site is located in the coastal village of Clogherhead in County Louth and along Crooked Street on the S side of the Village. The surrounding area is mainly residential in character, the houses have long narrow rear gardens and the lands slopes down towards the beach. There are several detached, semidetached and terraced, single and 2-storey houses in the vicinity as well as a number of caravan parks. There is a wide range of house types of various sizes, heights and styles. The original fishermen's cottages are arranged along the road frontage whilst the modern bungalows are located both along the road frontage and to the rear of existing houses in the long rear gardens.
- 1.2. The site comprises a long narrow plot which contains warehouse buildings originally associated with the fishing industry. The small historic building to the front of the site, "The Kipperin" was an original smokehouse whilst the larger warehouse buildings to the rear are now derelict. The site is bound to the N by Crooked Street, to the S by the Ashling caravan park and to the W by a small detached single storey house with an equally long rear garden. The site is bound to the E by two modern bungalows, the first fronts on to Crooked Street and the second is located approximately halfway along the long narrow plot.
- 1.3. The S site boundary is mainly defined by trees and hedgerows, the E site boundary is defined by low shrubbery whilst the W site boundary is undefined. The site is overgrown and there is a large mound to the rear of the derelict warehouse and this mound is located adjacent to the second neighbouring house to the E.
- 1.4. Maps and photographs in Appendix 1 describe the site and surroundings in detail.

2.0 Proposed Development

- 2.1. Planning permission is being sought to erect a new house on the c.0.23ha site:
 - Demolish the existing warehouses & retain "The Kipperin"
 - Construct a 2-storey house (c.222sq.m.)
 - Improve the vehicular entrance off Crooked Street
 - New boundary treatment & site works.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of Further Information in relation to: - improved sightlines at the entrance; cross-sectional drawings through the site; and boundary details; the planning authority decided to grant permission subject to 7 standard conditions.:

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer recommended that planning permission be granted.

3.2.2. Other Technical Reports

Infrastructure Department: No objection following receipt of FI subject to conditions related to sightlines, visibility and surface water drainage.

3.3. Prescribed Bodies

Irish Water: No objection subject to conditions.

3.4. Third Party Observations

Two submissions received.

John & Elizabeth Whelahan who own the neighbouring house to the E raised concerns in relation to drainage, noise, overlooking, overshadowing, inadequate separation distances and excessive height.

Councillor Oliver Tully expressed support for the proposed development.

4.0 Planning History

Reg. Ref.67/41: Permission granted for a telephone exchange building.

5.0 Policy Context

5.1. Louth County Council Development Plan 2015 to 2021

Zoning objective:

The site is located within a Level 3 Settlement and within an area covered by the Residential zoning objective which seeks “To protect and enhance existing residential communities and provide for new residential communities.”

Policy SS 9: seeks to promote & facilitate limited development within Level 3 Settlements that is commensurate with the nature and extent of the existing settlement, to support their role as local service centres and to implement the policies & objectives relative to each settlement (Appendix 2, Volume 2 (a)).

Strategic Objective:

OBJ 1: seeks to protect & support Level 3 Settlements as local service centres in the rural area & facilitate limited development that is commensurate with the nature and extent of the existing settlement and the availability of public services and facilities.

Clogherhead Settlement Plan

Policy CLOG 1: seeks to support Clogherhead in its role as a local rural service centre for its population and that of its hinterland where the principles of environmental, economic and social sustainability including protection of the village’s heritage, the natural and built environment are enshrined.

Policy CLOG 2: seeks to promote and facilitate limited residential development commensurate with the nature and scale of Clogherhead in the village core, utilising brownfield sites and infill opportunities in order to rejuvenate and consolidate the village, in compliance with the Core Strategy.

Residential development standards:

Height:	Consistent with area & not exceed 3-storey
Private amenity space:	80sq.m. (suburban) & 50sq.m. (town centre)
Separation distances:	22m between opposing first floor windows

5.2. Natural Heritage Designations

Clogher Head SAC & pNHA are located c.400m to the E of the site.

Boyne Coast & Estuary SAC & pNHA are located c.4.0km to the S of the site.

Boyne Estuary SPA is located c.4.5km to the S of the site.

Dundalk Bay SPA is located c. 5k to the N of the site.

Clogher Head Area of Outstanding Natural Beauty is located to the N & E of the site

6.0 The Appeal

6.1. Grounds of Appeal

John and Elizabeth Whelahan who own the house on the adjoining site to the E raised the following concerns:

Design:

- The 2-storey design is out of character with the area which is set by dormer bungalows on elevated sites with little tree or hedge cover.
- Occupies a position which would exploit potential views from the elevated site to the sea with no regard to neighbouring amenity.
- Request board to reconsider design & location.

Overbearance:

- Elevated position in combination with inadequate separation distances.
- Site is c. 1.6m higher than the appellant's garden.

Coastal area:

- Scale should be appropriate to setting and Dev. Plan states that "single storey in uplands & coastal areas are preferable where they are prevalent".
- Excessive scale & height on a site with restricted width in close proximity to site boundary & neighbouring house.
- Adverse impacts on light, solar gain and privacy.
- House should be located elsewhere on the large site.

Residential amenity:

- Excessive overlooking and loss of privacy, despite the FI amendments.
- Inadequate separation distances, inappropriate window arrangement and balcony location.
- Excessive overshadowing due to close proximity to SW corner of appellant's house & inadequate separation distances.

Foul wastewater:

- Query viability of proposed foul waste water proposal.
- Electronic pumped system would give rise to continuous noise disturbance.

Overdevelopment & backland development:

- Proposed house is too big for the narrow & restricted site with inadequate separation distances to site boundaries (c.1m).
- Backland development should be carried out in a co-ordinated and orderly manner to protect neighbouring amenities.
- Compromise the redevelopment of the backland areas which would be contrary to the proper planning & sustainable development of the area.

6.2. Applicant's Response**General:**

- The family home is located within 200m of the site, the family have a long-established fish processing business in the area and the site is family owned.
- Their neighbour (Paul Clifford) has agreed to sell them an additional piece of land to facilitate the development.
- The historic Kipperin to the front will be retained and the derelict warehouses will be demolished (c.5.6m high & c.108mOD).
- Complies with Dev. Plan zoning objectives, development strategy & planning policy for Level 3 Settlements with no adverse impacts on designated sites.

Design & layout:

- The area is not characterised by dormer bungalows, there is a significant mix in heights including the 2.5 storey house to the fore of the appellant's house.
- There is a mature boundary around the site and the variation in levels will assist in absorbing the houses into the area.
- The appellant's house also takes advantage of the seaside views.
- No overlooking as there are no windows on the E facing side save for one to a hallway which would be fitted with opaque glass.
- Architectural feasibility studies show consideration of the neighbouring site and the design fits with the site and the surrounding area.

Overbearance:

- There is a c.17.5m separation distances between the corner of the 2 houses which is adequate and the proposed house would be stepped back.
- The appeal site is not 1.65m higher than the appellant's garden as this does not take account of the extensive scrub on the site which distorts the views
- The rear gardens will be mainly at a similar level with no significant difference between the FFLs at the 2 houses.
- There is also a narrow site between the 2 sites which would provide for an additional separation.
- Photographs of poles erected on the site illustrate the height relationship.

Coastal area:

- The height, design & separation distances are appropriate for the area and the position is the most appropriate for the site.
- Not a backland site as there is no dwelling to the fore, the derelict warehouses are a similar height and The Kipperin building was originally higher.
- The neighbouring bungalow may have habitable attic accommodation.
- No loss of light or overshadowing as the proposed house would be located to the SW with a c.17.5m separation distance.

Overlooking:

- No overlooking due to the orientation, separation distances & staggered layout, and layout takes account of relationship with neighbour.
- The footprint is not significant when compared to the warehouses.
- Position of the windows would not give rise to overlooking (in excess of 17m) and there are no opposing windows which would require a 22m separation.
- The E facing 1st floor window is to a hallway/landing and will be opaque glass, but willing to replace it with a high-level window (details attached).
- Position, orientation & design of the master bedroom and side window will prevent overlooking, the window is c. 20m from the neighbouring corner.
- There is no established house design character in the area.

Overshadowing:

- No potential for overshadowing due to the proposed orientation to the SW of the appellant's house, except for summer evenings when the sun is setting.

Foul wastewater:

- Mechanical pumping of effluent is a standard procedure in urban areas which does not give rise to noise pollution.
- Now satisfied that the foul drainage can connect to the existing waste line on Crooked Street by means of a gravity fed system.
- If a pump is required, then it could be set back more than 7m from the neighbour's boundary in compliance with EPA guidance.
- The pump will only kick in 3 to 4 times per day with minimal noise disturbance.

Overdevelopment & backland development:

- Design and layout takes account of the site constraints including topography, orientation & neighbouring amenity, and it would replace derelict commercial buildings and the neighbouring site contains 2 houses.
- The neighbouring house is a backland development that was constructed without regard for the comprehensive redevelopment of backland areas.

- Proposed house would not be located to the rear of any houses.
- Precedent already well established for the development of backland sites.

6.3. **Appellant's Responses**

This response to the Applicant's response submission raised no new issues, other than to state that it might not be possible for the drainage to be gravity fed to Crooked street because the change in levels throughout the site.

6.4. **Planning Authority Response**

No new issues raised.

6.5. **Observations**

None received.

7.0 Assessment

The main issues arising in this case related to the following:

- Principle of development
- Design & layout
- Residential amenity
- Vehicular access
- Environmental services
- Other issues

7.1. Principle of development

The proposed residential development would be located within the Level 3 Settlement of Clogherhead in the current County Louth Development Plan. Policy SS 9 of the Plan seeks to promote and facilitate limited development within Level 3 Settlements that is commensurate with the nature and extent of the existing settlement, to support their role as local service centres and to implement the policies & objectives relative to each settlement (Appendix 2, Volume 2 (a)). The appeal site is covered by the Residential zoning objective which seeks “To protect and enhance existing residential communities and provide for new residential communities” and the proposed dwelling house would be acceptable in principle.

7.2. Design and layout

Design & layout:

The appeal site is located on the S side of Crooked Street which is defined by a mix of single and 2-storey houses of various ages, designs and heights, and the houses on the S side of the street have very long narrow rear gardens. Crooked Street does not lie within a Conservation Area and there are no Protected Structure in the immediate vicinity. The surrounding lands slope down gently from W to E towards to coast and from N to S towards the Ashling caravan park.

The site comprises a long narrow strip of land that extends from Crooked Street to the caravan park, the site is c.160m long and between c.9m and c.18m wide. The site comprises family owned land and a strip of land which has acquired from the

neighbour to the W which is c.110m long and c.7m wide. There is an existing house located in the central section of the neighbouring site to the E which is located at slightly lower level than the appeal site, it is positioned to the rear of the properties that front on to Crooked Street and c.62m from the roadside boundary.

The proposed house would be located parallel to the W site boundary, between c.3m and 7.5m from the E site boundary and c.92m from the road side boundary to the N. It would be positioned c.74m to the rear of the neighbouring property to W and entirely to the rear of the neighbouring property to the E with a c.7.7m separation between the front NE corner of the proposed house and the rear SW corner of the neighbouring house to the E.

The site boundaries, as amended by Further Information, would be defined by a new boundary timber post and rail fence with a 2m high native hedging. Vehicular access would be via the existing improved entrance off Crooked Street and via a new driveway. There would be new soakaways located to the N of the proposed house.

The proposed part single but mainly 2-storey house would be c.21m deep, between c.6m, 9m and 11m wide, and between c.3.3m and 7.8m high. It would have a contemporary design with a mix of finishes including plain cast render, rough cut natural stone and natural slate. The rear elevation would be flush with the W site boundary whilst the front E facing elevation would be staggered.

The design, layout and position of the proposed house within the site are considered acceptable in terms of visual amenity having regard to the configuration of the site, including its extensive length and narrow width. I am satisfied that the proposed house would not give rise to overdevelopment having regard to the overall area of the c.0.23ha site. There is no established pattern of development in the surrounding area, and as previously stated, the existing house types range from traditional fishermen's cottages to modern dormer and 2-storey over basement houses.

The existing houses mainly front on to Crooked Street although there are also some houses located in the long rear gardens of the road frontage properties, particularly to the E of the site, and the proposed development would not set a precedent for similar future developments in the area.

The existing warehouses would be demolished, except for “The Kipperin” which fronts onto Crooked Street, and the proposed house would be located to the rear of these structures. Although the proposed house would be set back a substantial distance from the roadside boundary, I am satisfied that it would not constitute undesirable backland development, having regard to the constraints imposed by the narrow width of the N portion of the site and the retention of “The Kipperin” structure. Having regard to the foregoing, I am satisfied that the proposed development would be acceptable in terms of visual amenity, it would not constitute overdevelopment, give rise to undesirable backland development or set a precedent for similar future developments in the area, and it would not seriously injure the visual amenities of the surrounding coastal village area to any significant extent.

7.3. **Residential amenity**

Proposed house:

The proposed house would provide for an acceptable level of residential amenity in relation to floor area, room size, orientation, storage and amenity space, in line with national and local requirements which is considered acceptable in terms of residential amenity, and the private open space provision would significantly exceed Development Plan requirements.

Relationship to E:

The Third Party has raised concerns in relation to the impact of the proposed development on the residential amenities of their neighbouring house to the E with particular regard to overbearance, overshadowing, overlooking and loss of privacy.

As previously stated, the proposed part single but mainly 2-storey house would be c.21m deep, between c.6m, 9m and 11m wide, and between c.3.3m and 7.8m high. The rear elevation would be flush with the W site boundary with a c.1m set back. The front E facing elevation would be staggered and the set back from the E site boundary would vary from between c.1m, 3m, 5.5m and 8m at ground floor level from N to S, whilst the first floor set back would vary from between c.3.5m, 6.5m and 8m. It would be located almost entirely to the rear of the neighbouring property to the E with a c.7.7m separation between the proposed front NE corner and the rear SW corner of the neighbouring house which is located on a slightly lower than level than the proposed house.

Overbearance: The proposed house would be located to the rear SW of the existing house which is located on a slightly lower level than the proposed house. Although the proposed house would be highly visible when viewed from the rear of the neighbouring house, I am satisfied that it would not be overbearing having regard to the design, layout and staggered setback along with the juxtaposition of the two properties.

Overshadowing: The proposed house would be located to the rear SW of the existing house which would not be overshadowed to any significant extent having regard to the orientation, separation distances and juxtaposition of the two properties. Although a shadow would be cast over a small section to the rear SE of the neighbouring house and the adjoining section of rear garden in the later part of the day during the summer months, this impact would not have a significantly adverse impact on residential amenity as the main habitable rooms would not be overshadowed.

Overlooking & loss of privacy:

The proposed part single but mainly 2-storey house would be located almost entirely to the rear SW of the neighbouring dormer house and there is no potential for overlooking between directly opposing windows because of the juxtaposition of the two houses, with no loss of privacy anticipated.

Under the original proposal there would be 3 windows in the E facing elevations at first floor level to bedroom no.1 and no. 2 and a large landing window, and the Third Party raised concerns in relation to overlooking and loss of privacy.

The window to bedroom no.1 would be set back c.7m from the E site boundary with a c.24m diagonal separation from the SW corner of the neighbouring house which would not be overlooked with no loss of privacy anticipated.

The window to bedroom no.2 would be setback c.3.5m from the E site boundary with a c.20m diagonal separation from the SW corner of the neighbouring house, whilst the landing window would be set back c.7.5m from the E site boundary with a c.19m to 22m diagonal separation from the SW corners of the neighbouring house.

Under the Further Information response, the E facing window to bedroom no.2 was omitted and the landing window would be fitted with opaque glass. The applicant proposed further amendments in the appeal response submission which comprise

the replacement of the landing window (c.2.5m by 1.3m) with a new high-level window also fitted with opaque glass (c.2.5m wide and 0.65m high). This is an acceptable amendment as the redesigned landing window and use of opaque glass would ensure that the neighbouring site would not be overlooked to any significant extent.

The Third Party raised concerns about the use of the flat roofs over the single storey sections as balcony areas which would give rise to overlooking, however this concern could be addressed by way of a planning condition restricting any such use.

Conclusion:

Having regard to the foregoing, I am satisfied that, subject to the aforementioned amendments, the proposed development would not seriously injure the residential amenities of the neighbouring property to any significant extent by way of overbearance, overshadowing, overlooking or loss of privacy.

7.4. Vehicular access

Vehicular access to the proposed development would be via the existing site entrance off Crooked Street which would be improved and upgraded to provide for 45m sightlines in both directions at a 3m setback from the road edge, under the original proposal. The Council's Infrastructure department raised concerns in relation to the practicality of this arrangement and Further Information was requested.

Under the amended proposal, the entrance would be further recessed into the site, a section of the existing roadside boundary wall would be removed and the height of a section of the neighbouring front boundary wall to the E would be reduced from c.1.5m to c.0.6m. This arrangement would provide for 33m sightlines in both direction at a 2m setback from the road edge which was considered acceptable to the Infrastructure Department. I am satisfied that adequate visibility can be achieved subject to the permanent maintenance of the sightlines in each direction.

Having regard to the built-up character of the surrounding area, the relatively low density of development in the area served by this road and its seasonal use by seaside holiday makers and day trippers, the proposed development would not give rise to a traffic hazard or endanger the safety of other road users.

7.5. Environmental services

The proposed development would be connected to existing environmental services and Irish Water and the Council's Infrastructure Department have no objection to the proposal. Having regard to the location of the proposed house within an existing village and on serviced lands, I am satisfied that the proposed arrangements are acceptable subject to compliance with Council requirements in relation to water supply and drainage.

The Third Party raised concerns in relation to the location of the proposed drainage soakaway and the use of a mechanical pump that could give rise to noise disturbance.

The surface water soakaways would be located to the N of the proposed house and the closest one to the proposed house would be parallel to the E site boundary and NW section of the neighbouring house with a c.13m separation distance. This arrangement is considered acceptable with no adverse impacts on neighbouring amenities anticipated.

Foul drainage would connect to the existing public foul drainage system under Crooked Street to the N via a pump system which would be located to the N of the proposed house. It is unlikely that the drainage would be gravity fed as the site rises up slightly from S (102mOD) to N (103mOD) before falling again at Crooked Street (99mOD). The use of a mechanical pump is fairly standard practice, it would be set back a substantial distance from the E site boundary (in excess of 7m), and having regard to the village location I am satisfied that the proposed system would not give rise to any significant noise disturbance.

7.6. Other issues

Heritage: The site is located to the S of an Area of Outstanding Natural Beauty at Clogher Head which would not be affected by the proposed development.

Screening for Appropriate assessment: The site is located within c.400m of the Clogher Head SAC, c.4-4.5km from the Boyne Coast & Estuary SAC and SPA. However, and c.5km from the Dundalk Bay SPA. However, having regard to the location of the works within an existing village on serviced lands and the absence of a direct connection between the proposed works and the designated sites, I am satisfied that screening for AA is not required.

8.0 Recommendation

Arising from my assessment of this appeal case I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the County Louth Development Plan 2015 to 2021, and to the nature, and scale of the proposed development, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the Further Information that was received by the planning authority on the 6th day of November 2017 and the applicant's response submission that was received by An Bord Pleanála on the 23rd day of January 2018, 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. For the avoidance of doubt:

(a) The east facing window to bedroom no. 2 shall be omitted as indicated on Drawing no. FI-04 that was received by the planning authority on the 6th day of November 2017.

(b) The east facing window to the first-floor landing shall be reduced in scale and permanently fitted with opaque glazing as indicated on Drawing no. ABP-04 that was received by An Bord Pleanála on the 23rd day of January 2018.

(c) The site boundary treatment shall be as indicated on Drawing no. FI-02 that was received by the planning authority on the 6th day of November 2017.

Reason: In the interest of residential and visual amenity.

3. The flat roof areas located over the single storey sections of the proposed house shall not be used an amenity area or for sitting out.

Reason: In the interest of residential and visual amenity.

4. The landscaping scheme for the site boundaries shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and native hedgerow species, unless otherwise agreed in writing with the planning authority.

Reason:
In the interest of visual amenity.

5. The developer shall comply with the following transportation requirements:
- (a) Adequate visibility shall be made available and maintained for a minimum of 33m on either side of the entrance from a point 2.0m back from the edge of the carriageway over a height of 1.05m above road level measured from the edge of the carriageway and no impediment to visibility shall be placed, planted or allowed to remain within the visibility triangle.
 - (b) The developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any such damage forthwith to the satisfaction of the planning authority or pay for the cost of making good any such damage.

Reason: In the interests of orderly development and road safety.

6. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.

7. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

8. The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the residential amenities of adjacent dwellings.

9. The developer shall pay to the planning authority a financial contribution of five thousand, four hundred euro (E5, 400) 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. The application of any indexation required by this condition 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.

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.

Karla Mc Bride
Planning Inspector
4th July 2018