



An
Bord
Pleanála

Inspector's Report ABP-301297-18.

| | |
|-------------------------------------|---|
| Development | Retention of minor alterations to previously approved permission (ref. 15/600663), comprising of larger rear extension and revised south elevation. |
| Location | 106 Ard Na Greine, Clonmel, Co. Tipperary. |
| Planning Authority | Tipperary County Council. |
| Planning Authority Reg. Ref. | 17/601291. |
| Applicant(s) | Paul and Sandra Charles. |
| Type of Application | Retention Permission. |
| Planning Authority Decision | Grant Retention Permission |
| Type of Appeal | Third Party V. Decision |
| Appellant | Brian Gallagher. |
| Observer | None. |
| Date of Site Inspection | 15/06/2018. |
| Inspector | Susan McHugh. |

1.0 Site Location and Description (248951)

- 1.1. The site is located in an established residential area to the east of the town centre of Clonmel, characterised by a mix of low profile single storey dwelling units with pitched roofs, many of which have been extended to the rear.
- 1.2. The site is roughly midway along the cul de sac and fronts onto a public road which defines the site's eastern boundary. On site is a single storey semi-detached dwelling house no. 106 with the other semi-detached dwelling located on the northern boundary at no. 105. To the south is a similar semi-detached dwelling house no. 107, which is home to the appellant.
- 1.3. The recently constructed single storey extension to the rear includes a flat roof and parapet, windows to the side south facing elevation, windows and sliding doors to the rear western elevation which open out onto steps and external patio area. The extension is finished in render and is located approx. 4m from the southern side boundary with no. 107.
- 1.4. There area to the front, and side of the existing dwelling is surfaced and the site slopes in a westerly direction to the rear. The site includes a garage to the rear garden and pedestrian access to the laneway to the rear. The northern and southern boundaries are defined by timber panel fencing which is approx. 3m in height along the southern boundary with no. 107.

2.0 Proposed Development

- 2.1.1. Permission is sought for alterations to a previously permitted development granted permission under P.A. Reg. Ref. 15/600663.
- 2.1.2. The alterations as originally submitted to the planning authority on the 23rd November 2017 included an additional 2.7sqm floor area at the southern side of the single storey extension to the rear with changes to the external patio and steps.
- 2.1.3. The development would connect to existing services.

- 2.1.4. Further information was submitted on the 19th February 2018 referring to details in relation to the ridge height and south elevation as constructed compared with that previously permitted.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to **grant** retention permission for the development subject to three conditions. Of relevance is condition no. 3;

'Within 8 weeks of the receipt of this notice a revised site layout shall be submitted for the written agreement of the Planning Authority showing the as-built drainage collection services (foul and surface water).'

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 22/01/2018)

Basis for planning authority decision, include;

- Application is made in response to non-compliance with Conditions 1 and 5 of P.A. 15/600663.
- An appraisal of the development regarding issues raised by the third party.
- The main changes for which retention are sought relate to the size (floor area) of the extension and alterations to the patio.
- Reference is made to the separation distance of the development to the southern boundary; no overlooking issues arise.
- Do not consider the overall volume of massing of the extension to have increased significantly from that originally proposed and does not give rise to overshadowing or loss of light, or impacts from light or noise nuisance.
- Development is unobtrusive from the public roadway and does not negatively impact on the character of the area.
- Further information is required in relation to overall height of the extension, and the as built south elevation.

- Recommends further information on ridge level and utility door as shown on plans/drawings.

The planning report dated 13/03/2018 recommends permission be granted.

3.2.2. **Other Technical Reports:**

District Engineer: no objection.

3.3. **Third Party Observations**

A submission received objecting to the development referring to impacts on the adjoining dwelling. Issues raised are similar to those in the grounds of appeal.

4.0 **Planning History**

P.A. Reg. Ref. 15/600663: Permission **granted** 03/12/2015 for the demolition of existing single storey extension to rear of residence, construction of new single storey extension to rear, retention of alterations to elevations, and to existing roof and associated site development works to that permitted under PA 2681 and for retention of the garage to the rear. It includes:

Condition no. 1 - plans and particulars

Condition no. 5 - external finishes to be agreed.

The floor area of the permitted development was 38sqm (file attached).

P.A. Reg. Ref. 2681: Grant of permission for extension, no details available from Council web site.

4.1. **Enforcement**

Warning Letter Ref. No. **TUD-17-105** served 08/09/2017 in relation to noncompliance with Condition no. 1 and 5 of P.A. Reg. Ref. 15/600663. (Letter attached).

5.0 Policy Context

5.1. Development Plan

The current plan is the Clonmel and Environs Development Plan 2013 as varied.

The site is located within an area zoned 01 '**Residential**' which refers to existing residential.

The objective of which is '*to preserve and enhance existing residential amenity including avoiding excessive overlooking, reduction in general safety and the reduction in the general usability and security of existing public and private amenity space.*'

Chapter 9 relates to Development Management and **Section 9.3** refers to Domestic Extensions and provides guidance in relation to the proposed development in this regard.

5.1.1. **Section 9.13** specifically indicates that;

The Council will generally seek to implement the following guidelines in respect of residential extensions:

- *The extension should generally be subordinate to the main building;*
- *The form and design should integrate with the main building, following window proportions, detailing and finishes, including texture, materials and colour;*
- *A pitched roof will be required except on some small single storey extensions;*
- *Designs should have regard for the amenities of the neighbouring residents, in terms of light and privacy; and*
- *Flush roof lights are preferable to dormer windows.*

5.2. Natural Heritage Designations

The nearest Natura 2000 site is the Lower River Suir SAC (Site Code 002137) located c. 0.6km south of the site.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds can be summarised as follows:

- The original planning application was submitted without consultation with neighbours and was not formerly objected to out of 'good neighbourliness' and naivety.
- The differences between the drawings and as constructed development in relation to the ridge height and internal layout are only two elements and cite the following;
 - Altered patio levels, relocated patio steps and guard rail alterations,
 - Increased internal floor area, and omission of entire side patio area,
 - Relocation of windows/fenestration,
 - External ridge height and external finish,
 - Drainage layout and run-off,
 - Different internal layout from that on plans.
- Results in overshadowing, loss of privacy and overlooking.
- In combination classed as 'minor alterations' by the developers, but considered major alterations and would have objected to the original application had they been included.
- Refer to large garage structure along the public laneway and alterations to the front entrance to the property.
- The variance in the size and layout of the built extension has circumnavigated objections which would have been submitted.
- The extension due to its size and appearance has an adverse impact on the scale and character of the dwelling, it is visible from the front as well as the rear public roadways adjacent to the property.

6.2. Applicant Response

A response to the third-party appeal was submitted by Kenneth Hennessy Architects on behalf of the applicants, may be summarised as follows;

- Contend that the grounds of appeal are vexatious and should be dismissed by the Board under Section 27.
- Issues raised in the appeal were previously raised in the submission to the planning authority, who decided to grant retention permission.
- The proposed development does not compromise the amenity of the adjoining house, and represents a small deviation from the previously permitted development.
- The appeal submitted is poorly presented and repetitive.
- Most of the aspects of the current development would have met the requirements of Exempted Development had it not been for the previous works to the house.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

7.0 Assessment

7.1. The main issues raised in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Scale and Design
- Residential Amenities

- Other Matters
- Appropriate Assessment

7.2. Scale and Design

- 7.2.1. The development is located in an area zoned 01 'Residential'. In this zone residential extensions to an existing dwelling are considered acceptable in principle. Section 9.13 provides guidance in respect of residential extensions, in particular; extensions should generally be subordinate to the main building; the form and design should integrate with the main building, following window proportions, detailing and finishes, including texture, materials and colour; a pitched roof will be required except on some small single storey extensions; designs should have regard for the amenities of the neighbouring residents, in terms of light and privacy.
- 7.2.2. The subject planning application for retention was lodged by the applicant on foot of alterations carried out to a permitted development under P.A. Reg. Ref. 15/600663 and subsequent warning letter for non-compliance with conditions attached to that permission.
- 7.2.3. The alterations to be retained include an increase in floor area of 2.7sqm at the southern side of the single storey extension to the rear, and essentially incorporates the previously permitted outdoor patio area. The appellants have raised concerns in relation to what are considered major differences between that previously permitted and development on site to be retained. They also consider that the extension to be retained would have an adverse impact on the character of the existing house.
- 7.2.4. I note the floor area of the single storey extension to the rear previously permitted under P.A. Reg. Ref. 15/600663 was 38sqm. This permission also involved the demolition of the existing single storey extension which had a pitched roof and an area of 17.5sqm.
- 7.2.5. As alluded to by the applicants the exempted development regulations provide a very useful guide in relation to the scale of domestic extensions. Class 1 of the Regulations (Class 1, Schedule 2 Part 1, of the Planning and Development Regulations 2001, as amended) allows for up to 40 sqm floor area to be added, by way of new construction, to the rear of a house. The most important

condition/limitation is that the remaining private open space to the rear is not less than 25 sqm. The applicant states that the original extension was not exempt by virtue of an existing garage which reduced the area of open space to the rear.

- 7.2.6. The proposed development to be retained with an overall area of 40.7sqm is of a similar order of magnitude to that which could be constructed as exempted development had the garage not been constructed. In this context, therefore, I find it difficult to conclude that the proposed development is excessive or in any sense amounts to overdevelopment, at least in terms of floor area.
- 7.2.7. In my view the most significant alteration relates to the alterations to the southern elevation of the single storey rear extension. Floor plan and section Drawing no. 1510(PD)11A submitted by way of further information clearly outlines the nature and extent of the works to be retained compared to that previously permitted.
- 7.2.8. The extension as constructed incorporates a patio area within the internal layout of the permitted dining room, such that the southern elevation is now flush with the side gable of the original house. The southern elevation is now 0.5m deeper than previously permitted, and is set off the southern boundary with no. 107 by 4m increasing to 5.4m at its western end.
- 7.2.9. Elevation Drawing no. 1510(PD)12A also submitted by way of further information illustrates the elevation details to be retained again compared to the previously permitted. The sliding doors to the permitted dining room indicated on the southern elevation are identical to that constructed and to be retained. There are very minor alterations to a bedroom window on the gable of the original house. I also note parapet height of the permitted flat roof rear extension is indicated as 103.31OD as compared to that as constructed at 103.48OD. A difference of 0.17 is considered negligible.
- 7.2.10. I have reviewed the other alterations which include the omission of external patio area in lieu of steps and stepped rear garden, and omission of utility door to the rear west facing elevation which I can only reasonable conclude are very minor alterations.
- 7.2.11. I also note the design of the extension, and while it is contemporary in design it is subordinate to the original main dwelling. It is located to the rear and I am satisfied that it is not readily visible from the public road and does not have an adverse impact

on the character of the existing house or the area. I also consider that the flat roof and parapet is appropriate on this relatively modest single storey extension which also serves to reduce the massing and scale of the extension.

7.2.12. I consider therefore that appeal should not be upheld in relation to the issue of scale and design.

7.3. Residential Amenities

7.3.1. In my view the principal issue in this case relates to the alterations to the southern elevation of the single storey rear extension, and the impact on the appellants property to the south. Given, the single storey nature of the extension, the separation distances to the southern boundary, the existing boundary treatment and the location of the appellants property to the south of the appeal site, I do not consider that the development to be retained would result in overlooking or overshadowing.

7.3.2. In summary, I am satisfied, that the development to be retained would not seriously injure the amenities of the adjacent property by way of overshadowing or overbearance and would be in keeping with the proper planning and sustainable development of the area.

7.3.3. I consider, therefore, that the appeal should not be upheld in relation to the issue of residential amenity.

7.4. Other Matters

7.4.1. *Surface Water Drainage* – The appellant notes alterations to the drainage layout. In this regard I note the planning authority had attached a compliance condition requiring the applicant to submit details within 8 weeks of the grant of retention permission. I note that the Area Engineer had no objection to the development and considered that this issue can be addressed with the planning authority by way of condition.

7.4.2. *Internal Layout* – The appellant has noted the alterations to the internal layout of the extension. I have reviewed the alterations and consider them very minor.

7.5. Appropriate Assessment

Having regard to the nature and scale of development to be retained and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that permission for retention should be granted subject to conditions for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands and to the compliance with the development standards in the Clonmel and Environs Development Plan 2013 as varied, to the acceptable scale and design of the alterations to be retained, and to the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the development to be retained would not seriously injure the residential or visual amenities of the area or property in the vicinity. The development to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted 19th April 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. Details of the materials, colours and textures of all the external finishes to the extension shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. In this regard the applicant shall submit a revised site layout plan showing the as-built drainage collection services (foul and surface water) to be agreed in writing with the planning authority.

Reason: In the interest of public health.

Susan McHugh
Planning Inspectorate

5th July 2018