



An
Bord
Pleanála

Inspector's Report ABP-301342-18.

Development	Retain and complete dwelling house.
Location	Springfield, Fermoy, Co Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	17/6786.
Applicant	Brendan O'Hagan.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant	Dr Noreen Barry.
Observer	None.
Date of Site Inspection	22 nd June 2018.
Inspector	Mairead Kenny.

1.0 Site Location and Description

- 1.1. The site is located in an established low density suburban area in Fermoy town. The site is in a small cul de sac of individually designed houses, which is known as Springfield. The appeal concerns a site located in the corner of the cul-de-sac. To the rear of the site playing fields and a public street. To the south and west are dwelling houses which are part of the Springfield development. I refer in more detail to the description of the site and surroundings in my assessment section of this report.
- 1.2. Photographs which were taken by me at the time of inspection are attached.

2.0 Proposed Development

- 2.1. Permission is sought for retention and completion of a house, which comprises a change of plan from that previously permitted under reg. ref. 16/6828.
- 2.2. In response to a request for further information it is clarified that the floor area of the house to be retained is 209.07 m².

3.0 Planning Authority Decision

3.1 Decision

The planning authority decided to grant permission subject to conditions including:

- to be in accordance with plan some particulars received by the planning authority on 27th of October 2017 and 9th of February 2018
- requirements regarding external finishes and landscaping
- construction phase measures
- details of gates and surface water
- development contribution in accordance with the scheme.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The final report noted that the floor area of the dwelling to be retained is 209.0 m². Furthermore, development contributions will be levied in accordance with the scheme. Permission should be granted.

The original planner's report notes the variety of house design in the estate including single storey, one and a half storey and two-storey designs. In principle there is no objection to the retention of the change of use but there are discrepancies in the information provided. Further information required.

3.2.2. Other Technical Reports

The report of the area engineer indicates no objections.

3.3. **Prescribed Bodies**

Irish Water indicates no objections subject to details.

3.4. **Third Party Observations**

A submission received from the owner/occupier of 9 Springfield objects to the development due to its unauthorised nature, insufficient/incorrect documentation and impact on privacy. It refers also to enforcement proceedings. It states that the distance from the unauthorised development to the property boundary is closer to 8m than the 12m estimated in the application and that this should be verified on the ground. The garage proposed under the previous application would not have impacted on privacy – for that reason no submission was made at that time. The unauthorised structure provides a clear line of sight from a residential room down the side and back entrance to my property, which has resulted in an impact to my privacy and rights enjoyment.

4.0 **Planning History**

A letter has issued from the Board to the planning authority requesting history details on reg. ref. 16/6828. That was a permission granted for the erection of a two-storey

house with an attached single storey garage. Pending receipt of a response I have examined the details on the relevant website and refer to aspects of that proposal later in this report. Conditions include a requirement that the site be landscaped.

At nearby sites two permissions for extensions to dwelling houses are noted in the planner's report.

5.0 Policy Context

5.1. Development Plan

The Fermoy Town Development Plan 2009 is in force. The site is in an area zoned Residential. Requirements for layouts for new residential development as set in section 3.7.11 to include 'prevent the front elevation from facing onto the rear private spaces of other dwelling'.

5.2. Natural Heritage Designations

Not relevant.

6.0 The Appeal

6.1. Grounds of Appeal

The main points of the third party appeal include:

- Objection to the retention of the residential space in lieu of the permitted garage
- the entire ground floor layout and chimney placement is different to that for which permission was granted - therefore it cannot be argued that this was a conversion
- the applicant was allowed to complete his house before he applied for permission to retain and I then launched an unsuccessful appeal
- correspondence and photographs are attached

- there are two extra clear glass windows facing directly onto my private garden resulting in a total of 11 clear windows facing the east side of my house
- ideally the garage space should be converted back to the permitted garage
- a compromise would be that the height and type of planting is specified to afford me privacy but not block my natural light (for example good quality trellis) and that extra windows in situ are converted to obscure glass

Enclosures Relate to 06/51027. Includes a Further Information relating to removing the east facing windows on both dormers at first-floor level.

There is also a warning letter dated 30th of June 2017 which refers to nonconformity with the plans and particulars of planning reg. ref. 16/6828 by the replacement of the permitted garage with an extension and secondly the use of the garage which was limited by condition 6.

6.2. **Applicant Response**

The comments submitted by the applicant were received after the relevant date and were returned.

6.3. **Planning Authority Response**

No substantive response received.

6.4. **Observations**

None.

7.0 **Assessment**

I refer to the development plan objective under section 3.7.11 of the development plan to ensure that the front elevation of houses are orientated to ensure that they do not face onto the rear private spaces of other dwellings. I note that the house which it is proposed to retain does not comply strictly with this objective. However, the development in place is broadly similar to that permitted. The orientation of the house is as previously permitted. In that context I consider that it is reasonable that

the detailed design issues, which are the relevant matter in this appeal be considered with reference to the recent permission for development at this site.

I consider that the following aspects of the proposed development are significant:

- The separation distance between the permitted and existing
- The changes to fenestration
- Boundary screening.

At the time of inspection I took some measurements from the low side boundary wall of the appellant's house to the front of the porch (9m) and the main façade (11m) of the subject house. These measurements substantially conform to the permitted development and to that which is described in this application.

The front elevation of the dwellinghouse as constructed is largely as permitted save for the alteration of the permitted garage space to a living room and the resulting changes including the installation of two small windows. It is this element of the house which appears to be of most concern to the appellant. Having regard to the fenestration and location of the permitted house I do not consider it appropriate or reasonable that the garage area be reinstated or that the two windows be of opaque glazing.

I refer in connection with the above point to the matter of boundary screening. A proper detailing of this aspect of the development is in my opinion the key to resolution of the overlooking between the two houses. There are two windows in the appellant's house which face to the subject house, a bedroom and a study / workspace. While the separation of over 12m between the two facades is reasonable there is a high degree of inter-visibility between the two houses, as I witnessed on inspection. This arises due to the orientation of the houses which is unconventional but largely in accordance with the permitted development. The relationship between the two houses is exacerbated by the low height of the existing boundary wall, which is circa 1.1m instead of the normal 1.8m structure which would be expected between the sides of houses.

In the permitted development there are requirements for landscaping of the intervening zone. This arises from a condition of the permission. It is relevant also to note the inclusion of a landscape strip on the site layout plan at this location – that

is replicated on the site layout accompanying the current application. Subject to appropriate planting or other features I am satisfied that overlooking can be eliminated.

I have considered the suggestion by the appellant that a trellis or similar structure be installed. I have recommended a condition which allows for this to be considered by the planning authority as part of agreement between the applicant and the planning authority on the detailing of landscaping.

I consider that the southern boundary of the site also requires landscaping and this can also be addressed by condition.

I am satisfied that there are no other material issues arising.

8.0 Recommendation

I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the planning history and the design and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development to be retained and completed would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic and convenience and 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 revised by the further information received by the planning authority on 9th of February 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 screen planting or fencing to serve the western and southern boundaries of the site proposed development, which may incorporate light trellis style fencing and appropriate planting shall be submitted to, and agreed in writing with, the planning authority within two months of the date of decision. The boundary screening shall minimise inter-visibility between the houses but shall not comprise a solid hedge or wall, which might result in significant overshadowing of the adjacent houses. The landscaping shall be completed within six months of the date of decision.

Reason: In the interest of visual and residential 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.

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

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

5. 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 the 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.

Mairead Kenny
Senior Planning Inspector

27th June 2018