



An
Bord
Pleanála

Inspector's Report ABP-303421-19

Development	Retention of Extension
Location	33 Cluainin, Gorey, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20181449
Applicant(s)	Noeleen Brady Doyle & Anthony Doyle
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Sean Doyle
Observer(s)	None
Date of Site Inspection	30 th April 2019
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.03 hectares, is located to the north of Gorey Town centre in an existing residential area. The appeal site is located on the southern side of Cluainin. The site is occupied by a two-storey semi-detached dwelling (No. 33). To the east of the site is the other two-storey semi-detached dwelling that makes up the pair (No. 31). To the west is two-storey detached dwelling that fronts onto North Parade. To the south is a lane that runs to the rear of properties on the southern side of Cluainin and north side of Pearse Street.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Permission is sought for retention of alterations and extension (which includes granny flat with separate entrance) to the side and rear of an existing serviced dwelling house. Permission is also sought to make alterations to the first floor rear window of the extension (Planning Register No 20023179 refers). The stated floor area to be retained is 126.6sqm.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Wexford County Council issued a notification of decision to grant permission subject to 6 no conditions. Condition of note are as follows:

Condition No 2 – The rear window of the development shall be fitted and maintained with opaque glazing

Condition No 6 – The extension / granny flat shall be incidental to the enjoyment of the main dwelling house.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- **Executive Planner** – It is stated that the proposed slight reduction in size of the window on the upper floor and the change of the floor plans submitted showing a bedroom instead of a living room upstairs did not address the reason for refusal by An Bord Pleanála. The issue of overlooking and impact on residential amenities is still relevant. The Case Planner recommended that permission be refused for a single reason, similar to that issued by the Board in the previous appeal on this site PL26.247294 (Reg Ref 2016/0790) refers. See Section 4.0 Planning History below for further details. The report was countersigned by the Senior Executive Planner.
- **Senior Planner & Director of Services** – In a further supplementary report the Senior Planner considered that the changes by the applicant move towards resolving the issues of overlooking by changing the internal layout at first floor level and therefore deal with the Boards refusal. The Senior Planner recommended that permission be granted subject to conditions including the rear window be fitted and maintained with opaque glazing. The Director of Services, having considered both reports was in agreement with the Executive Planner stating that [we] *cannot re-adjudicate the ABP decision* and that the changes proposed are quite minor. They requested additional consideration of the Boards decision and Inspectors report. In a further report from the Senior Planner it is documented that the previous Board Inspectors report states that the proposal to condition the window of the living room at first floor level with glazing would not work. The Senior Planner reiterates the alterations now proposed whereby the granny flat is now contained within the ground floor of the extension with bedroom to the first floor together with the reduction in the size of the rear bedroom window. The Senior Planner recommended that permission be granted subject to conditions including the rear window be fitted and maintained with opaque glazing. This recommendation was discussed and agreed with the Director of Services.

3.2.2. Other Technical Reports

- **Chief Fire officer (CFO)** – Building to be designed and constructed in accordance with Part B (Fire) of the Second Schedule of the Building Regulations 1997 – 2014.

3.3. Prescribed Bodies

3.3.1. There are no reports on file from any prescribed bodies recorded on the planning file.

3.4. Third Party Observations

3.4.1. There is one observation recorded on the planning file from Sean Doyle, Kilmuckridge, Gorey, Co Wexford (appellant in this case). The issues raised may be summarised as follows:

- The drawings are almost identical to Planning Application No 20160790. The sitting room is now called a bedroom and is fitted with a smaller “standard bedroom window”.
- Planning Application No 20160790 was refused by An Bord Pleanála. The reasons for their refusal have not been addressed in this new application. The depth of the extension has not changed. The window is still overlooking the private rear gardens serving the houses on Pearse Street.
- If permission is granted it will lead to an unacceptable level of overlooking and diminution of privacy and would seriously injure the residential amenities of the neighbouring properties.
- The fact that an unauthorised building is already there should not influence the decision of the planning authority.

4.0 Planning History

4.1. There are two previous planning application on this site and a previous appeal that may be summarised as follows:

4.2. **PL26.247294 (Reg Ref 2016/0790)** – Wexford County Council granted permission for the retention of alterations and extension, which includes granny flat with separate entrance to serviced dwelling house (planning register reference number 20023179 refers), all at 33 Cluainin, Gorey Corporation lands, Gorey, County Wexford. This decision was appealed by a third party. The Board refused permission for the following reason:

Having regard to the depth of the extension proposed to be retained, its proximity to the private rear gardens serving houses on Pearse Street to the

south, the scale of the first floor rear window serving the main living area of the house, and the planning history of the site, it is considered that the development proposed to be retained would result in an unacceptable level of overlooking and diminution of privacy, and would seriously injure the residential amenities of neighbouring property. The development proposed to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.

- 4.3. **Reg Ref 20023179** – Wexford County Council granted permission subject to 6 conditions for the erection of a two storey extension to rear and side of existing dwellings which includes a self-contained granny flat with separate entrance at 33 Cluainin, Gorey, Co Wexford.
- 4.4. **Plannign Enforcement Case 0016/2016** – Stated t that this case, relating to non-compliance with Condition No 1 of Reg Ref 20023179 was closed on 3rd June 2016. No further information in this regard is provided.

5.0 **Policy and Context**

5.1. **Development Plan**

- 5.2. The operative plan for the county is the **Wexford County Development Plan 2013-2019. Chapter 18** of the Wexford County Development Plan 2013-2019 sets out the **Development Management Standards**. Section 18.13.3 deals with **Self-Contained Residential Unit for use by a Family Member** where it states as follows:

The Council will consider the provision of self-contained residential unit for occupation by a family member. The self-contained unit should be connected to the main dwelling house and be designed so that it can be incorporated into the main dwelling house when its use as a self-contained unit is no longer required. The council may consider the provision of a detached self-contained unit where the need for such a unit s demonstrated.

- 5.3. The operative plan for the town of Gorey is the **Gorey Town & Environs Local Area Plan 2017 – 2023**. The site is zoned *residential* where the stated objective ‘*to protect and enhance the residential amenity of existing and developed communities and to*

provide for new residential development, associated residential services and community facilities’.

5.4. Natural Heritage Designations

5.4.1. The site is not located within a designated Natura 2000 site. The closest sites are Kilpatrick Sandhills SAC (001742), Cahore Marshes SPA (004143) and Cahore Polders & Dunes SAC (000700).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appeal has been prepared and submitted by Sean Doyle, Kilmuckridge, Gorey, Co Wexford. The issues raised may be summarised as follows:

- This extension is not in harmony or keeping with its surroundings. Other extension in the area are not as obtrusive and are of a different design and are in harmony with the area.
- The extension has overlooking of private gardens and has a dominant visual impact on the area.
- This is a 5 bedroom house plus a one bed apartment for family use. According to the information provided on the plans the minimum private open space is not achieved.
- Condition No 2 requires that the rear window at first floor level shall be fitted with opaque glazing to prevent overlooking. This rear window requires an opening sash of .33sqm to comply with fire regulations. Therefore every time the window is open it will be breaking the condition of planning.
- Reference is made to ABP Case 243589 where it states that the use of opaque glass for the first floor window is not considered to be consistent with good design practise of proper planning and development of the area. The use of opaque glass will not completely remove the potential of overlooking as when the window is ope overlooking will occur.
- The “Granny Flat” is a self-contained one bed apartment. The plan does not state the floor area which should be a minimum of 45sqm. This size is not

achieved. Therefore it does not comply with the design standards for new apartments. Further the design and layout of the apartment does not comply with Part M of the building regulations.

- The extension to the rear of the dwelling will have an adverse impact on the properties to the south through overlooking, over dominance, devaluation and will also affect the future development of some of the rear gardens of the private houses on Pearse Street. Also the private residence lane is overlooked leading to lack privacy by other users.

6.2. Applicant Response

6.2.1. There is no response from the applicant recorded on the appeal file.

6.3. Planning Authority Response

6.3.1. Wexford County Council state that the alterations would reduce the impact of the development on the adjoining properties from previous schemes.

6.4. Observations

6.4.1. There are no observations recorded on the appeal file.

6.5. Further Responses

6.5.1. There are no further responses recorded on the appeal file.

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Residential Amenities
- Other Issues

8.0 Principle

- 8.1. Under the Gorey Town & Environs Local Area Plan 2017 – 2023 the site is zoned “residential” where residential extensions and self-contained residential units for use of a family member is acceptable in principle at this location subject to compliance, with the relevant policies, standards and requirements set out in plan.
- 8.2. With regards to the overall visual amenity of the scheme, the extension is in keeping with the scale and design of the parent dwelling and is similar in ridge height. I am satisfied that the scheme will not detract from the streetscape and is acceptable in terms of overall visual impact.
- 8.3. With regard to the Granny Flat to be retained at ground floor I refer to Section 18.13.3 Self-Contained Residential Unit for use by a Family Member as set out in the Wexford County Development Plan 2013-2019. I am satisfied that the self-contained unit is connected to the main dwelling house and is designed such that it can be incorporated into the main dwelling house when its use as a self-contained unit is no longer required. Accordingly there is no objection to the retention of the use of the granny flat.

9.0 Residential Amenities

- 9.1. The pertinent issue in the consideration of this scheme is the impact of the first floor element of the scheme on the residential amenities of neighbouring properties. In this regard I refer to the previous appeal on this site where the Board refused permission for the retention of existing alterations and extension which are the same as that now before the Board (save for the internal layout), for the following reason as summarised:

Having regard to the depth of the extension proposed to be retained, its proximity to the private rear gardens serving houses on Pearse Street to the south, the scale of the first floor rear window serving the main living area of the house, and the planning history of the site, it is considered that the development proposed to be retained would result in an unacceptable level of overlooking and diminution of privacy, and would seriously injure the residential amenities of neighbouring property.

- 9.2. I agree with the Local Authority Case Planner that the issue of overlooking, diminution of privacy and impact in relation to amenities is still relevant in this case.
- 9.3. The rear extension is set back only 1.76m from the southern rear boundary. Immediately to the south is a laneway providing access to the rear of properties along Cluainin to the north and Pearse Street to the south where dwellings and rear gardens back onto the laneway. It would appear from the previous Inspectors report that the primary issue of concern with the extenuation was the provision of the main living area at first floor level with its only window being a large window on the southern elevation and that it would result in an unacceptable level of overlooking of amenity space associated with the dwellings located to the south and fronting onto Pearse Street. I agree with these concerns particularly given the windows elevated location and its proximity to the rear boundary.
- 9.4. However the scheme now before the Board puts forward some amendments comprising the change of use from a living room at first floor level to a bedroom together with a reduction in the width of the rear window from 2.5m to 1.8m and in height from c1.7m to 1.3m. This amended rear window will serve a bedroom only. I refer to the elevation drawings submitted with the previous application and the application now before Board. Further the window in question is set back in excess of 45 m from rear elevation of properties on Pearse Street (approx. separation distance between the properties). I refer to the site layout plan submitted with the application (Drg Ref 3202 refers. I am satisfied that the separation distance between the appeal property and those on Pearse Street together with the amended window, change of use to a bedroom and intervening lane is acceptable in this urban setting and that the proposed first floor rear extension will not adversely affect the amenities of neighbouring properties by reason of unacceptable overlooking or diminution of privacy.
- 9.5. I note the approach taken by the Local Authority whereby Condition No 2 requires that the rear window of the development be fitted and maintained with opaque glazing. However I agree with the previous Inspectors comments that to impose such a condition would be detrimental to the amenities of future residents in the appeal site and set a precedent for a poor standard of development and therefore such a condition should not be applied in this case.

10.0 Other Issues

- 10.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising the retention of domestic extension and associated site works, within an established urban area, and its distance to 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.
- 10.2. **EIA Screening** – Having regard to the nature and scale of the proposed development comprising the retention of domestic extension and associated site works in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 10.3. **Development Contributions** – Wexford County Council has adopted a Development Contribution scheme; Wexford County Council Planning Authority Area Development Contribution Scheme 2018, under Section 48 of the Planning and Development Act 2000 (as amended). I have considered the sections entitled “Exemptions” and “Incentives (Discounting / Credit)”. The proposed development does not fall under the exemptions / incentives listed in this scheme. Accordingly, it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

11.0 Recommendation

- 11.1. It is recommended that permission be **GRANTED** for the reasons and considerations set out below.

12.0 Reasons and Considerations

- 12.1. Having regard to the zoning objective for the area as set out in the Gorey Town & Environs Local Area Plan 2017 – 2023, the established pattern of development in the area and the nature, scale and design of the proposed extension to be retained it is

considered that, the proposed development would not seriously injure the residential amenities or the visual the amenities of the area and would therefore be generally in accordance with the proper planning and sustainable development of the area.

13.0 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. The granny flat extension at ground floor and the first floor rear bedroom be used solely for that purpose. The granny flat shall revert to use as part of the main dwelling on the cessation of such use.

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

3. 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.

Mary Crowley

Senior Planning Inspector

17th May 2019