



An
Bord
Pleanála

inspector's Report ABP-303519-19

Development	Construction of additional floor above existing bungalow and extension. Change of use and refurbishment of the existing commercial/industrial units to ancillary domestic use with all ancillary site works.
Location	Halfway House, Ballymaclode, Waterford.
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	18608
Applicant(s)	Valerie Meaney and Kevin Kinsella
Type of Application	Permission
Planning Authority Decision	Grant subject to Conditions
Type of Appeal	First Party against Conditions
Appellant(s)	Valerie Meaney and Kevin Kinsella
Observer(s)	None
Date of Site Inspection	1 st April, 2019
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located c.6km to the south east of Waterford City on the R683 road that connects with Passage East. The site is located approximately 400 metres to the east of the junction between the R683 (Passage East road) and the R684 (to Dunmore East). Halfway House on the R.683 is located approximately 1km to the east of the site. The road on which the site is located is a busy regional route. The junction to the south west of the site, Blenheim Cross provides access to a residential development of c.40 dwellings located to the north of the site called Blenheim Heights.
- 1.2. The existing development on site comprises a single storey industrial unit to the front of the site directly accessing the road and a single storey cottage to the rear. It is stated in the application documentation that the industrial / commercial unit is currently vacant. The site forms what is currently part of a larger site that includes a two storey dwelling located to the west (identified as House B on the submitted plans). The access to the two storey dwelling and the cottage are both currently via a recessed entrance to the west of House B. Access to the industrial unit is via an existing gate in the boundary wall approximately in the centre of the road frontage of the appeal site.
- 1.3. To the east, the appeal site is bounded by an entrance and access driveway to a two storey dwelling that is located to the north west of the appeal site. Further to the west of the site are located two further properties, a dormer / two storey dwelling located at the junction at Blenheim Cross and two further dormer dwellings to the north, the first of which also incorporates an agricultural consultancy and services firm.
- 1.4. The application documentation indicates that the current drainage arrangements are that both the cottage (House A) and the existing two storey dwelling to the south west (House B), are connected to a single septic tank that is located immediately to the north of the industrial unit.
- 1.5. The stated area of the appeal site is 0.10 ha. The stated area of the existing buildings on the site is 70 sq. metres.

2.0 Proposed Development

- 2.1. The proposed development comprises the extension of the existing cottage on the appeal site by the addition of a first floor level to the existing building footprint and a single storey extension to the south. The stated floor area of the extension to the existing cottage (House A) is 136 sq. metres. The development also provides for the conversion of the existing industrial unit to domestic use as a store and garage. As part of these works new cladding to the roadside elevation of this structure is proposed.
- 2.2. A new garage door is proposed at a position slightly to the east of the existing garage entrance and a recessed pedestrian access is proposed leading to a circulation area and onwards into the site. The garage area is indicated as being large enough to accommodate two cars and a turntable arrangement is proposed to provide for cars not to have to reverse out of the site.
- 2.3. The development proposed the decommissioning of the existing septic tank that serves the two dwellings and the installation of two new effluent treatment systems, one on the appeal site and the second to the rear (north) of House A on the adjoining site to the west. This second treatment system is therefore located on lands that are outside of the red line boundary indicated on the submitted plans.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted by the Planning Authority subject to 6 no. conditions, the most significant of which in the context of the subject appeal are as follows:

Condition No. 1 requires inter alia that access to the 'existing bungalow' the subject of the permission shall be via the existing entrance to the overall site to the west and not via the industrial unit as indicated on the submitted plans.

Condition No.4 relates to the design, installation and maintenance of the on site effluent treatment systems.

Condition No.5 requires that the 'commercial / industrial' unit as indicated on the submitted plans shall be used solely for purposes incidental to the enjoyment of the dwelling.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

An initial planning officer report notes the planning history of the site, concerns expressed verbally by the Roads Section regarding the proposed access and that there is no objection in principle to the proposed first floor element or the potential overlooking of adjoining properties.

A second report subsequent to the submission of further information indicates that issues relating to residential amenity / overlooking and site drainage are acceptable, however reference is made to the report of the roads department and concerns regarding visibility at the site access. A grant of permission consistent with the notification of decision which issued is recommended.

3.2.2. Other Technical Reports

Roads Department – Planning Officer report states that the Roads section indicated that they were not satisfied that the proposed access point and turntable is acceptable and that an alternative access or the use of the existing access point to the west should be used. There is no written report on file to this effect.

Report subsequent to the response to further information indicates that there are concerns regarding access / egress to the site that would involve the crossing of the continuous white line and that in principle not in favour of a new access onto a regional road.

Water Services – No objection subject to conditions.

3.3. Further Information

Prior to the issuing of a Notification of Decision, the Planning Authority requested further information on the following issues:

1. Concerns regarding the proposed new access to the regional road and the proposed use of a turntable. Revised access proposal required.
2. Identification of wells in the vicinity of the site to be indicated on a map (as it is stated in the Site Characterisation Form that there are 3 no. wells within 250 metres).
3. Submission of further details (distances and screening) regarding the potential for overlooking of properties to the west of the proposed extended dwelling.

In response to this request, the applicant submitted the following information / revised plans:

- Stated that it is now proposed that the existing gate access / location to the garage would be used for access. A drawing showing how cars can turn around within the building is submitted. The revised plans also alter the layout of the garage and the frontage to the road with the existing basic elevation to the road now proposed to be retained. Pedestrian access would be via the garage door or a pedestrian gate at the eastern end of the frontage.
- Submission for the individual who undertook the site assessment stating that following inspection of surrounding sites, there is in fact only one private well, which serves the dwelling to the north west of the site.
- Regarding separation distances, plan submitted which indicates a distance of 23 metres between the closest window in the western elevation of the proposed first floor and the closest third party dwelling to the west of the site. Also noted that there is a c.2 metre difference in levels between the dwellings and that there is planting along the boundary that would combine to eliminate loss of amenity / overlooking.

3.4. Third Party Observations

None submitted to Planning Authority.

4.0 Planning History

The following planning history is referenced in the report of the Planning Officer:

Waterford County Council Ref. 00508848 – Permission granted by the Planning Authority in 1993 for the extension of an existing light industrial building.

Waterford County Council Ref. 00507277 – Permission granted by the Planning authority in 1989 for the change of use of building from store to light industrial use.

Waterford County Council Ref. 00505857 – Permission granted for extension to existing store building on appeal site.

Waterford County Council Ref. 00504967 – Permission granted in 1981 for a bungalow on the appeal site to Mrs Maura Kinsella.

Waterford County Council Ref. 76138 – Application in 1976 for an extension to cottage on appeal site. No record of a decision issued.

5.0 Policy and Context

5.1. Development Plan

The site is located within the extent of the Waterford City Development Plan and is zoned for Agriculture with the objective '*to protect and preserve rural character and preserve agricultural uses*'.

Paragraph 7.4 relates to the Rural Area and states that it is policy to discourage the construction of new buildings and structures save in certain circumstances, including for the purposes of alteration and extension of existing buildings.

With regard to granny flats and extensions to dwellings, pg.198 states that the design and layout of extensions should have regard to the amenities of adjoining properties, particularly with regard to sunlight, daylight and privacy. The character

and form of the existing building should be respected and external finishes and window types should match existing.

5.2. Natural Heritage Designations

The Lower River Suir SAC (site code 002137) is located c.400 metres to the east of the appeal site at the closest point. The features of interest of this site are as follows:

- Atlantic salt meadows
- Mediterranean salt meadows
- Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachium* vegetation
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)
- *Taxus baccata* woods of the British Isles
- *Margaritifera margaritifera* (Freshwater Pearl Mussel)
- *Austropotamobius pallipes* (White-clawed Crayfish)
- *Petromyzon marinus* (Sea Lamprey)
- *Lampetra planeri* (Brook Lamprey)
- *Lampetra fluviatilis* (River Lamprey)
- *Alosa fallax fallax* (Twaité Shad)
- *Salmo salar* (Salmon)
- *Lutra lutra* (Otter)

Site specific conservation objectives from March 2017 are published for this site.

5.3. EIA Screening

Having regard to the nature of the proposed development, its limited scale of the proposed development in terms of additional habitable accommodation, the proposed installation of new effluent treatment systems and the de commissioning of an existing septic tank and the separation of the site from environmentally sensitive locations, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- That the basis of the concerns expressed by the Roads Section are that the proposed entrance involves the crossing of a continuous white line.
- Noted that the definition of a continuous white lines as per SI294 of 1964 is a that it shall *'indicate that traffic must drive to the left of the line, and where on a stretch of roadway on which such a line has been provided a driver shall, save for the purposes of entering or leaving land or premises adjoining the right hand side of that roadway, drive to the left of that line'*.
- The definition therefore provides for the crossing of a continuous white line to access a premises or land. It is assumed that this relates to permitted entrances. In this regard it should be noted that the entrance to both the existing house and to the industrial unit are entrances that have been authorised under the planning acts.
- That the existing entrance to the house (conditioned to be used for the development) has a continuous white line as do other entrances in the vicinity

including the access to the Blenheim Heights residential development of c.40 houses to the west. .

- That the sight lines available at the industrial entrance are better than those to the residential entrance with an additional c.30 metres available to the crest of the hill located to the west.
- That the speed limit along this section of regional road has been reduced from 90km/hr to 60 km/hr.
- That the industrial entrance dates from c.1900 and permission has been granted for alterations / developments to this site three times since.
- That as part of the further information request the applicant was invited to submit either a revised proposal retaining the existing access arrangement or provide a new entrance to the site via the existing entrance. The first option was chosen and submitted.
- The option chosen only involves works inside the building to provide for parking.
- That the use of the existing residential access is not practical in the long term and would make the future separation of the two houses very difficult.
- That the industrial unit has been used by K Sport, as a storage for a toy store and for sign making in recent years. The unit has been empty since 2014. The proposed residential use would have far fewer traffic movements than these previous industrial / commercial uses.

6.2. Planning Authority Response

There is no record on the appeal file of a response to the grounds of appeal being received from the Planning Authority.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of the subject appeal:

- Principle of Development / Conditional Appeal
- Appropriate Assessment
- Site Access and Traffic Safety Issues / Conditions Nos. 1 and 5 of Notification of Decision to Grant Permission Issued by the Planning Authority

7.2. Principle of Development / Conditional Appeal

- 7.2.1. The subject appeal is submitted against Conditions 1 and 5 attached to the Notification of Decision to Grant Permission issued by Waterford City and County Council. It is therefore open to the Board to determine the appeal in accordance with the provisions of s.139 of the Act and to direct the attachment, removal or modification of the subject conditions. The following sections address the principle of the proposed development and provides a brief assessment as to whether a de novo assessment of the development is warranted.
- 7.2.2. The appeal site is located on lands that are located within the development boundary of Waterford as set out in the Waterford and Environs Development Plan, 2013-2019. The site is zoned for Agriculture, with the objective '*to protect and preserve rural character and preserve agricultural uses*'. Under this land use zoning objective, urban generated housing is not normally permissible, and it is policy to discourage the construction of new buildings. Policy contained at 7.4 of the plan, however provides for development comprising alterations and extensions of existing buildings in areas zoned for agricultural uses, and it is considered that the proposed development comes within this category of development. The principle of the extension of the existing dwelling and the change of use of the shed from industrial to ancillary residential use is therefore considered to be acceptable in principle.
- 7.2.3. The proposed development provides for the extension of the existing cottage identified as House A on the submitted plans, through an extension of the existing footprint of the dwelling to create first floor accommodation and through a ground

floor extension on the southern side of the building. The existing context and layout of the cottage is that it is located at the northern end of the appeal site and relatively close to the northern, eastern and western site boundaries. The potential impacts on residential amenity arising from the proposed development comprise potential overlooking to the north east and to the south west from the first floor windows proposed in these elevations. I do not consider that these impacts would be such as to result in a loss of amenity to adjoining residential properties given the surrounding land uses and relationship to adjoining properties. Specifically, to the east the development overlooks the access driveway to the dwelling to the north west while to the west, the new first floor element would be separated by c.21 metres from the closest third party building, which is in any event in commercial use. For these reasons, I do not consider that the proposed development would have any significant adverse impacts in terms of residential amenity.

- 7.2.4. The design of the proposed development is contemporary and, in my opinion acceptable in this location. The existing cottage on the site is not considered to be of any particular architectural or conservation merit and is not included on the record of protected structures or NIAH.
- 7.2.5. The development proposes the decommissioning of the existing septic tank that serves the cottage and adjacent House B and its replacement with separate effluent treatment systems to independently serve the two dwellings. Site Characterisation assessments for the two locations have been submitted and specification for the proposed treatment systems provided. Ground conditions observed at the time of assessment indicated a T value of 12.2 with no water or rock observed in the trial holes. On the basis of the information presented, I consider that the proposed effluent treatment systems are acceptable in principle given the R2₂ groundwater protection categorisation. The fact that the installation of the new systems will result in the decommissioning of an existing septic tank and that water supply is to be via a piped connection are also noted. On the basis of the information presented it is not clear where the closest potential connection point to a public foul sewer might be available and whether this is a viable option.
- 7.2.6. The proposed change of use of the former industrial / commercial unit to provide accommodation that is ancillary to the residential use of the site is considered to be acceptable in principle and no residential accommodation is proposed as part of this

change of use. On the basis of the information presented it would appear that no commercial activity has been undertaken from this premises since 2014. It is noted that an alternative layout of the commercial unit was presented to the Planning Authority as part of the response to further information, and that this alternative option proposes only minimal alterations to the existing elevation to the R683. By contrast, the original proposal incorporated significant alterations to the roadside elevation with revised pedestrian and vehicular access points, cladding and rooflight. Both elevations are in my opinion acceptable in terms of visual amenity.

7.2.7. Having regard to the above, it is in my opinion appropriate that the appeal would be dealt with under s.139 of the Planning and Development Act, 2000 (as amended) and it is therefore proposed to proceed with the assessment on this basis.

7.3. **Appropriate Assessment**

7.3.1. The aspect of the proposed development that has the potential to impact on European sites in the vicinity is the discharge of effluent to the ground arising from the operation of the proposed on site effluent treatment systems.

7.3.2. The only site that is located close enough to the appeal site to be potentially impacted by this form of discharge to ground water is the Lower River Suir SAC (site code 002137), which is located c.400 metres to the east of the appeal site at the closest point. The features of interest of this site are as follows:

- Atlantic salt meadows
- Mediterranean salt meadows
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- Old sessile oak woods with Ilex and Blechnum in the British Isles
- Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)
- Taxus baccata woods of the British Isles

- *Margaritifera margaritifera* (Freshwater Pearl Mussel)
- *Austropotamobius pallipes* (White-clawed Crayfish)
- *Petromyzon marinus* (Sea Lamprey)
- *Lampetra planeri* (Brook Lamprey)
- *Lampetra fluviatilis* (River Lamprey)
- *Alosa fallax fallax* (Twaite Shad)
- *Salmo salar* (Salmon)
- *Lutra lutra* (Otter)

Site specific conservation objectives from March 2017 are published for this site.

7.3.3. The proposed on site treatment systems are to be constructed as per the design specifications submitted with the application. A Streamline BAF system is proposed to be installed and details of this system including polishing filter have been submitted. Ground conditions have been the subject of assessment and have been demonstrated to be suitable for the disposal of effluent and consistent with the EPA Code of Practice for Wastewater Treatment and Disposal Systems serving single houses. Having regard to the design of the proposed treatment systems, the discharge of effluent to ground, the nature of the SAC which comprises a river system and the separation distance involved, it is not considered that any likely significant effects on the environment of the SAC would arise.

7.3.4. With specific regard to the conservation objectives of the site as set out above, it is notable that the Conservation Objectives for the site include species that are sensitive to changes in water quality including lamprey, crayfish and pearl mussel species. With specific regard to pearl mussel, the site specific conservation objectives identify the suitable habitat length as being the Clodiagh catchment which is located c.20 km from the appeal site and upstream. The nature of the proposed development and the likely emissions are considered to be such that there would not be any likelihood of significant effects on any of the identified conservation objectives.

7.3.5. Having regard to the above, the proposed development is not likely to have significant effects on the Lower River Suir SAC in light of the conservation objectives for the site.

7.4. Site Access and Traffic Safety Issues / Conditions Nos. 1 and 5 of Notification of Decision to Grant Permission Issued by the Planning Authority

- 7.4.1. The case presented by the first party appellants is that the original access location to the industrial unit is an appropriate location for the vehicular access to the appeal site. Specifically, it is contended that as the main concern expressed by the Roads Department relates to the need to cross a continuous white line to access the site that there is no difference between the existing residential access and the vehicular access to the industrial unit.
- 7.4.2. The site is located fronting onto the R.683 in a location where the 60Km/hr speed limit applies. The route leads from Waterford in the direction of Passage East and is characterised by significant volumes of traffic. Traffic speeds at the time of inspection were observed to be high notwithstanding the 60 km/hr speed limit.
- 7.4.3. As the site is located in an area that is within the 60km/hr speed limit zone and within the boundary of the Waterford City Plan the provisions of DMURS are a consideration in the assessment. In any event, on the basis of Table 7/1 of the Design Manual for Roads and Bridges, the Y distance for a major road design speed of 60Km/hr is 90 metres.
- 7.4.4. From my inspection of the site, the visibility at the existing housing entrance is restricted to the west by the alignment of the road and a roadside hedgerow that is located on the adjoining site to the west which restricts visibility. Visibility to the east at this existing residential access is satisfactory. In the case of the industrial access, the visibility to the west is significantly better than the residential access due to its location approximately 40 metres further to the east along the R683. Visibility to the east is however worse although I estimate that is c.65-70 metres to the near side of the road. In addition, the traffic approaching from the east is rounding a slight bend from the south which means that there is additional visibility of approaching traffic from that direction (east).
- 7.4.5. In principle therefore, I consider that the available sight lines at the industrial access are better than those at the existing residential access. There are, however, a number of other issues that are relevant to the assessment. Firstly, I agree with first party that both access points involve turning movements across the continuous white

line. I would not however agree that this is the sole basis on which the roads department have objected to the proposed entrance. The proposed development would result in the creation of additional access points to the R.683, however given that the visibility at the access is as good as, or better than the existing residential access, I do not consider that this is a significant issue or reason for the new access to be omitted.

- 7.4.6. In my opinion a more significant issue with regard to safety is the ability of vehicles to turn within the site and the danger of permitting an access that would facilitate or encourage reversing movements onto the regional road from the industrial access. The original layout proposed a turntable within the existing industrial building allowing two cars to turn before existing the building. The use of a turntable is not however in my opinion realistic or appropriate for this location or form of development. As part of the response to further information submitted, a revised layout has been submitted which indicates a layout whereby cars could turn within the industrial building before existing onto the regional road. This layout does however involve a complex turning movement within the building and would not be feasible if any significant element of the industrial building were to be used for residential storage purposes as indicated on the originally submitted plans. In any event, I am not satisfied on the basis of the layout submitted that the proposed turning arrangement would be feasible with two cars.
- 7.4.7. For these reasons, I do not consider that it has been clearly demonstrated that the layout as proposed in the response to further information would not result in the risk of vehicles having to reverse onto the regional road which is in my opinion unacceptable for traffic safety reasons. Therefore, notwithstanding the acknowledged issues relating to the shared use of the existing residential access as set out in the first party appeal, it is considered appropriate that the development would be permitted on the basis of the continued use of the existing residential access to the west of the site. On the basis of my assessment, a future acceptable solution for the provision of a separate access for the appeal site would appear to require the demolition of the existing industrial building and the provision of a dedicated parking area that would clearly facilitate the turning of vehicles within the site.

8.0 Recommendation

Having regard to the above, it is recommended that the Planning Authority be directed to include Conditions Nos 1 and 5 as attached to the Notification of Decision to Grant Permission.

Stephen Kay
Planning Inspector

15th April, 2019