



An  
Bord  
Pleanála

## Inspector's Report ABP-303688-19

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<b>Development</b>	Retention of an as built ground floor and basement level extension together with all associated site works and services.
<b>Location</b>	No. 112 Cord Road, Drogheda, County Louth.
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	18/797
<b>Applicant</b>	Tony Heagerty.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Jack White.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	28 <sup>th</sup> day of May, 2019.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated site area of 250m<sup>2</sup>, is located at No.s 112 Cord Road, c0.1km to the east of its junction with Constitution Hill and Francis Street. It is situated in close proximity to Drogheda's town centre which lies c0.4km to the west, in County Louth.
- 1.2. The site contains a much-modified period mid-terrace 2-storey redbrick with slate roof over structure that dates to c1850s and to the rear a recently completed 2-storey plastered flat roofed extension. Its principal façade has a northerly aspect and is much altered at ground floor level when compared to the group of five originally matching redbrick terrace dwellings that it forms part of. It has a zero setback from the public footpath. Aligning the adjoining public footpath is on-street pay and display car parking spaces.
- 1.3. To the rear the site slopes steeply in a southerly direction towards the rear of the property that is bound by an off-street car parking area that serves a multi-unit 3-storey residential building whose principal façade addresses North Strand. There is a significant fall in ground levels between the rear boundary of the site and the aforementioned car parking area. Both side boundaries in the rear garden area consist of c2m high timber panel fencing.
- 1.4. The surrounding area is predominated by tight grain residential development and the immediate streetscape setting is characterised by period buildings mainly in terrace formats.

## 2.0 Development

- 2.1. Retention planning permission is sought for the construction of an as built ground floor extension with basement level together with all associated site works and services.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decided to **grant** retention permission subject to conditions including –

**Condition No. 3(a):** Requires all surface water from the proposed development to be disposed of within the boundaries of the site.

**Condition No. 3(b):** Relates to the treatment of waste during construction works.

### 3.2. **Planning Authority Reports**

#### 3.2.1. **Planning Reports**

The **initial planning officers** report concluded with a request for further information. This essentially seeks clarification on the variance between a permitted development to what is now existing on site.

The **final planning officers** report is the basis of the Planning Authority's decision.

#### 3.2.2. **Other Technical Reports**

**Conservation Officer:** I note to the Board that on foot of the Planning Authority's request for further information there is correspondence attached to file relating to the treatment of the principal façade by the Planning Authority's Conservation Officer.

### 3.3. **Prescribed Bodies**

3.3.1. None.

### 3.4. **Third Party Observations**

3.4.1. Two submissions were received by the Planning Authority during their assessment of this planning application. The substantive planning concerns raised therein correlate with those raised by the appellant in their grounds of appeal.

## 4.0 **Planning History**

**P.A. Reg. Ref. No. 17/523:** Planning permission was **granted** for a development consisting of the change of use of ground floor from retail/shop facility back to residential use together with all associated site works.

## 5.0 Policy and Context

### 5.1. Local Planning Provisions

#### 5.1.1. Louth County Development Plan, 2015 to 2022.

Section 2.16.4 of the above stated County Development Plan indicates that the statutory plan for the urban and surrounding environs area of Dundalk is currently the Drogheda Borough Development Plan, 2011 to 2017, and that the County Development Plan will be an overarching Development Plan for the entire county including the settlement of Dundalk.

#### 5.1.2. Drogheda Borough Development Plan, 2011 to 2017.

The Drogheda Borough Development Plan, 2011-2017, is applicable. Under this plan the appeal site is and the surrounding area are zoned Residential Existing 'RE'. The stated objective for such land is to protect and enhance the amenity of developed residential communities.

Section 6.6.9 is relevant.

### 5.2. Natural Heritage Designations

- The appeal site is located c0.2km to the northern banks of the River Boyne at a point where it is a designated Special Area of Conservation (Site Code: 002299 – River Boyne and River Blackwater SAC).
- The appeal site is within c1.4km to the west of the Boyne Estuary Special Protection Area (Site Code: 004080).
- The appeal site lies c2.8km to the west of the Boyne Coast & Estuary Special Area of Conservation (Site Code: 001957).

### 5.3. EIA Screening

- 5.3.1. Having regard to the serviced nature of the site, the lack of any ground works as all substantial works have been completed, the lack of any direct hydrological connectivity from the site to any nearby sensitive receptors, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development.

Therefore, the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The grounds of appeal can be summarised as follows –

- The ground levels have been substantially altered because of the amount of debris from the renovation, demolition and construction works. These alterations have resulted in additional run-off from the site onto the appellants property.
- The way waste was treated to facilitate this development is a concern.
- The fill buried on site contains asbestos and there is no paperwork to provide assurance that the asbestos has been removed in a safe and legislatively compliant manner.
- Asbestos from the applicants works have been found on the appellants property.
- Concerns are raised in relation to the treatment of the principal façade.
- The rear of the subject property has been left in a dangerous condition.

### **6.2. Applicants Response**

6.2.1. The applicant's response can be summarised as follows -

- There has never been a consistent ground level to the rear of this property.
- The applicant has provided boundary treatments to both sides of the rear garden at their expense.
- Waste from the site was removed from the rear of the site.
- The photographs provided by the appellant does not substantiate the presence of asbestos being left on site.
- The site has been tested for asbestos content and the results of the same are provided.

- This response is accompanied by a report titled “*Asbestos Sampling Survey Report of 112 Chord Road, Drogheda, Co. Louth*” prepared by OHSS. The scope of this survey included visual examination and sampling of both the soils as well as the rubble present to the rear of the house. This report refers to 7 samples and it indicates that asbestos was detected in three.
- This report is accompanied by two certificates of training for “*Asbestos Awareness Training & Removal of Bonded Asbestos Containing Materials*” from Phoenix Environmental Safety Ltd.
- This report is accompanied by a certificate of reoccupation from “envirotrade” which indicates the removal of asbestos found on site.
- This report is accompanied by a copy of a Waste Transfer Form for the shipments of hazardous waste.

### 6.3. **Planning Authority Response**

6.3.1. The Planning Authority’s response can be summarised as follows –

- No comments.

## 7.0 **Assessment**

### 7.1. **Introduction**

7.1.1. I consider that the main issues in this appeal case are those raised in the grounds of appeal and I am satisfied that no other substantive planning issues arise. I therefore propose to deal with the issues under the following headings -

- Principle of the Proposed Development
- Residential and Visual Amenity Impact
- Drainage Issues
- Construction and Demolition Waste
- Other Matters Arising

7.1.2. The matter of ‘Appropriate Assessment’ also needs to be addressed.

- 7.1.3. However, before I begin my assessment, I consider it incumbent to make note of the concerns raised by the appellant in relation to the manner in which the principal façade has been finished on foot of a previous grant of planning permission. This was acknowledged as a concern by the Planning Authority in their course of their assessment of this application and in their determination.
- 7.1.4. I am cognisant that under (Note: P.A. Reg. Ref. No. 17/523) permission was granted for a development consisting of the change of use of ground floor from retail/shop facility back to residential use together with all associated site works. The conditions attached to this grant of permission are limited in their nature as well as scope, but should the appellant consider that the works have been carried out in a manner that has deviated from the plans and particulars approved.
- 7.1.5. While I acknowledge that there are issues with what is *in situ* in terms of both the hues of the red brick used in the main rear elevation alongside the variation in brick jointing between the works carried out and the remainder of the terrace group which are in their original state; notwithstanding, this I consider would be an enforcement matter for the Planning Authority to deal with as they fit. In relation to this appeal case the Board is restricted in their considerations to the development as set out in the documentation accompanying this application only. These indicate that the applicant by way of this application seeks retention permission essentially for the demolition of a rear extension and the construction of a larger 2-storey rear extension in its place.
- 7.1.6. I therefore raise it as a concern that the Planning Authority has included a condition that relates to alterations to the principal façade (Note: Condition No. 2). In this regard I note that the Development Management Guidelines for Planning Authorities sets out under Section 7.3 that conditions should meet certain basic criteria including but not limited to being relevant to the development to be permitted and relevant to planning. In my view the principal façade does not form part of the development sought under this application for retention. Thus, I consider it appropriate that the Board restrict its assessment to the matters raised in this appeal only.

## 7.2. Principle of the Proposed Development

- 7.2.1. The appeal site is located in an area zoned 'RE', which is existing residential. Accordingly, in this zone residential extensions and alterations to an existing dwelling for residential purposes are considered an acceptable development in principle. The



current proposal is for retention planning permission for the construction of an as built ground floor extension with basement level together with all associated site works to the rear of a period 2-storey period mid-terrace dwelling.

### **7.3. Residential and Visual Amenity**

- 7.3.1. I am satisfied that the development proposed to be retained would result in appropriate form of residential extensions, which would generally follow the requirements for extensions set out in the Development Plan for the area and that it results in an improved level of internal amenity for modern occupation of what was a restricted in floor area period dwelling house.
- 7.3.2. In addition, having regard to the location of the existing house within a built-up urban area and to the nature as well as extent of residential development in the vicinity of the appeal site, while this development has undoubtedly resulted in an additional level of visual intrusion to the rear elevation of this period terrace group, some diminishment of natural light alongside some level of additional overshadowing to properties on either side, I consider that the level of diminishment is not out of context with its setting. A setting that can be described as a historic and built-up urban landscape.
- 7.3.3. In such settings, overlooking, where properties effectively back on to one another or where properties are flanking one another, overlooking and a level of overshadowing, through to a loss of natural daylight can be a common feature of their original design and layout as well as when these properties are extended. This is an inherent reality very often of living within historic urban settings. Notwithstanding, there are mechanisms that are frequently employed to minimise the degree of intrusion and loss of privacy for residential properties under the planning code. However, in this case I consider that the retention of the development sought would be acceptable in terms of impact on existing residential amenity of properties in its vicinity and would otherwise be in accordance with the proper planning and sustainable development of the area.

### **7.4. Drainage Issues**

- 7.4.1. Should the Board be minded to grant planning permission for the retention of the development sought under this application bearing in mind the appellants concerns in relation to surface water runoff from the site through to the potential pooling of water on site I consider it appropriate that a condition is imposed requiring all surface water to be disposed of within the confines of the site. Such a condition in my view would

be appropriate and reasonable to deal with these concerns. Moreover, it would be standard practice to include such a condition for this type of development irrespective of the fact that the works have been carried out and it would also allow for retrospective amendments should the works to date been carried out in the absence of adequate on-site surface water measures.

- 7.4.2. On the matter of flooding having regard to flooding mapping for the area; the residential zoning of the appeal site and the surrounding area; the ground levels of the site within its urban landscape; the finished floor levels of the terrace group No. 112 Cord Road forms part of; through to the public provisions for surface water drainage in this area, I do not consider that this development is at risk of flooding or that it would increase the flood risk elsewhere including the appellants adjoining property.

#### **7.5. Construction and Demolition waste**

- 7.5.1. Section 7.8.1 of the Development Management Guidelines indicates that regard should be had to the DEHLG Circular Letter WPR 7-06 and Best Practice Guidelines on the Preparation of Waste Management Plans for Construction & Demolition Projects. These documents provide guidance on how proposals with significant construction and demolition waste management issues relevant to planning should be considered in an integrated manner.
- 7.5.2. Unfortunately, in this instance demolition and construction works for the development sought under this application have already taken place. It is also unfortunate that the previous extension to the subject property included a Category 1 carcinogen building material, i.e. Asbestos, and that this appears to have been incorrectly dealt with in terms of the way demolition and waste removal was conducted. I am very cognisant of the fact that no level of exposure to asbestos is safe and there is no treatment currently available to aid a person to recover from its life shortening as well as life limiting consequences.
- 7.5.3. In the appellants submission to the Board they indicate that the works undertaken to remove the previous extension to the rear of No. 112 Cord Road has resulted in asbestos being found in the rear of their property. This is alongside the concerns that they raise that asbestos was buried on site as well as asbestos containing building materials were visible on the ground.

- 7.5.4. On-foot of this 3<sup>rd</sup> Party appeal that the applicant has taken the necessary steps to remediate the asbestos present on site. They contend that they have done so in a manner that the Local Authority are happy with. The documentation submitted by the applicant in their response to the grounds of this appeal would also suggest that the asbestos building material that had been disposed of to the rear of the site has now been successfully removed from the site in a manner that appears to suggest compliance with the various codes for dealing with such hazardous waste.
- 7.5.5. Despite this I am concerned that the applicant in their response to the grounds of appeal has not included any written documentation from the Local Authority's Environmental Section to support their contention that these remediation works have been carried out in a manner that they are satisfied with and to substantiate the applicant's contention that the Planning Authority's case relating to this matter is now closed.
- 7.5.6. It is also unclear whether the boundaries of the site where asbestos was also found were removed to ensure that there were no traces of asbestos left at the party boundaries nor does it appear that any regard was had to whether asbestos fibres or larger fragments from the demolition process made its way onto the adjoining properties, particularly No. s 111 and 113 Cord Road.
- 7.5.7. While I am cognisant that there are other legislative codes that deal specifically with asbestos and that compliance with such codes largely falls under the remit of the HAS; notwithstanding, should the Board be minded to grant retention permission for the development sought under this application it may first wish to seek clarification on the above stated concerns in the interests of public health or they may wish to deal with this matter by way of condition.

## 7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the development for which permission is sought, which relates to the retention of an as built ground floor and basement level extension together with all associated site works in the rear garden of an existing period terrace dwelling house in an established and serviced residential area outside of any Natura 2000 sites, I am satisfied that 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.

## 7.7. Other Matters Arising

### 7.7.1. Design of the Rear Elevation:

The submitted drawings indicate that both the basement level and family room directly above contain similar openings, i.e. matching in dimensions window and door. During my site inspection I observed that the largest of the two openings serving the family room does not appear as represented in the submitted drawings in that the door type opening includes railings.

Should the Board be minded to grant retention permission it would be appropriate that the drawings are amended to illustrate what is present on-site and that these are site suitable having regard to the difference between the openings serving the family room and the adjoining rear garden levels.

### 7.7.2. Rear Boundary:

The appellant raises concern that there is no rear boundary *in situ* and they outline several concerns in relation to the same.

Should the Board be minded to grant retention permission for the development sought under this application they may wish to impose a condition seeking the provision of the same.

### 7.7.3. Oversailing/Encroachment:

Having regard to the restricted nature of the appeal site, particularly in terms of its width, I advise that the Board should they be minded to grant retention permission for the development sought under this application to attach an Advisory Note that reiterates Section 34(13) of the Planning and Development Act, 2000, as amended, as a precaution.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objectives for the area and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained, 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.  
**Reason:** In the interest of clarity.
2. The full treatment of the door opening shown in the first-floor level of the rear extension of drawing titled “contiguous rear elevation” which serves an internal space referenced in the drawings as “family room” shall be agreed in writing with the Planning Authority within 3-months of the date of the Boards Order.  
**Reason:** In the interests of residential amenity and public safety.
3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.  
**Reason:** In the interest of public health.
4. The extension shall be used solely for purposes incidental to the enjoyment of the dwelling house and not for any residential subdivision, industrial, business or commercial purposes.  
**Reason:** To protect the amenity of the area and to protect the integrity of the house as a single dwelling unit only.

5. The details of a rear boundary shall be submitted to, and agreed in writing with, the planning authority within 3-months of the date of the Boards Order.

**Reason:** In the interest of residential and visual amenity.

**Note 1:** Section 34(13) of the Planning & Development Act, 2000, as amended.

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Patricia-Marie Young  
Planning Inspector

30<sup>th</sup> day of May, 2019.