



An  
Bord  
Pleanála

## Inspector's Report ABP 305023-19

### Development

Demolition of existing room to side of dwelling and construction of a single storey side extension, single storey family flat extension, first floor side extension, detached garage and all associated site works.

### Location

Donore Road, Drogheda, Co. Meath

### Planning Authority

Meath County Council

### Planning Authority Reg. Ref.

LB190254

### Applicant(s)

Ruth & Andy Kiernan

### Type of Application

Permission

### Planning Authority Decision

Grant Permission with Conditions

### Type of Appeal

Third Party

### Appellant

Stephen Early

### Observer(s)

None

### Date of Site Inspection

22<sup>nd</sup> October 2019

### Inspector

Brendan Coyne



## 1.0 Site Location and Description

1.1. The subject site (0.23ha) is located on the northern side of the Donore Road (L1601), in the rural townland Donore, c. 3.2km south-west of Drogheda Town. The site contains a detached two-storey 4-bedroom dwelling with single storey wing extensions to both sides. The roof profile of the dwelling is pitched, and its elevations comprise rendered finishing. Mature coniferous trees are planted along the eastern and western side boundaries of the site. Both the front and rear boundaries of the site are defined with a low-rise wall. A land ditch runs along the northern side of rear boundary wall. Lands to the rear of the site comprise a large field and lands to either side contain detached 1.5 storey dwellings.

## 2.0 Proposed Development

2.1. Application as lodged on the 08/03/2019 – Permission sought for the following;

- Demolition of an existing utility room to the eastern side of the dwelling,
- Construction of a first-floor extension to the western side of the dwelling,
- Increase in the roof ridge height of the main dwelling by 0.9m.
- New raised roof incorporates 2 no. dormer windows to the front roof slope and 3 no. velux rooflights to the rear roof slope,
- New porch entrance to the front elevation of the dwelling,
- Construction of a single storey 2-bedroom family flat extension to the rear north-eastern corner of the dwelling,
- Construction of a single storey extension to the side north-western corner of the dwelling,
- Alterations to size of window opes,
- Construction of a new detached garage to the eastern side of the dwelling,
- Alterations to the existing site entrance, including the widening of the vehicular entrance from 2.6m to 4m, reduction in setback from 5 metres to 4.2 metres and provision of new bell-shaped entrance wall splay.

- Decommissioning of the existing septic tank in the rear garden and the provision of a new proprietary wastewater treatment system and percolation area in the front garden (south-western corner),
- Extension of the rear site boundary to the north-west, to facilitate the proposed development,
- All associated site works.

2.1.1. Significant Further Information submitted on the 17/06/2019 includes the following;

- The piping of the existing land drain along the existing rear northern boundary of the site with a 150mm perforated twin wall pipe and the back filling in of the ditch.
- The replacement of the existing 150mm pipe at the recently excavated land ditch along the new northern boundary of the site with a new 300mm drainage pipe and the back filling in of the ditch.

(Note: These proposed works are detailed on the drawings submitted as outside the red line of the application site.)

- Provision of an access chamber serving proposed drainage works at the existing north-western corner boundary of the site, at a point where the piped drain to the rear of the neighbouring dwelling to the west enters the field drain to the rear of the subject site

(Note: The proposed access chamber is detailed on drawings submitted as outside the red line of the application site.)

2.1.2. Documentation submitted includes;

- Drainage Specification Report, prepared by Hydrocare Environmental Ltd.
- Landscape Plan, prepared by Jane McCorkell Landscape Architect.
- Revised Site Layout Plan.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Meath County Council granted permission for the proposed development subject to 14 no. Conditions. Of these, Conditions of note include the following;

**C.2** The existing dwelling and proposed family flat shall be jointly occupied as a single residential unit.

**C.4.** Landscaping shall be carried out in accordance with the landscaping plan carried out by Jane McCorkell and submitted to the Planning Authority on the 17/06/2019.

**C.5.** The proposed entrance shall be constructed as per the site layout plan (PP02) received by the Planning Authority on the 08/03/2019.

**C.6.** With regards surface water drainage on the site, the applicant shall carry out the following works;

(a) Prior to commencement of any development on site, the applicant shall submit for the written agreement of the Planning Authority a complete BRE test result for the proposed soakaway and details of winter ground water levels. Where infiltration systems are to be used, they shall have a minimum depth of 1 metre above the winter ground water table level. The applicant shall design the attenuation system suitable for the ground water conditions and acceptable to Meath County Council Services Engineer. The applicant shall maximise the opportunity for onsite infiltration where possible.

(b) Prior to commencement of any development on site the applicant shall engage with and secure the written agreement consent of Meath County Council Municipal District Engineer to carry out the proposed works to the existing surface water drain. The written consent of the Municipal District Engineer and any such recommendations shall be submitted for the written agreement of the Planning Authority prior to commencement of any such works on site.

The applicant shall carry out any remedial works to the existing surface water drainage network that the Municipal District Engineer considers necessary to

facilitate the discharge from the proposed development. Within 1 month of occupation of the dwelling / flat extension the applicant shall submit for the written agreement of the Planning Authority certification from a suitable qualified professional indicating that these works have been carried out, as per the recommendations of the Meath County Council Municipal District Engineer.

(c) The applicant shall carry out all surface water drainage works in accordance with the recommendations contained in the report carried out by Hydrocare Environmental Ltd. and received by the Planning Authority on the 17/06/2019.

(d) Permeable paving details shall be incorporated into the proposed driveway.

## **3.2. Planning Authority Reports**

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

Basis for the Planning Authority's decision, Includes:

- The applicant proposes to pipe the ditch which runs to the rear of the existing northern boundary of the site with a 150mm perforated twin wall pipe and fill in the ditch, on grounds of health and safety. The applicant also proposes to replace an existing 150mm pipe which runs along a ditch along the proposed new northern boundary of the site with a new 300mm perforated suitably specified drainage pipe laid at a minimum fall of 1:150 and the back filling in of this ditch. These works are acceptable subject to the recommendations of the Drainage Specification Report submitted, prepared by Hydrocare Environmental Ltd.
- The design of the proposed extension and garage is acceptable and in accordance with the Meath Rural Design Guide.
- The proposed development will not impact on the residential amenity of neighbouring property.
- The proposed widening of the vehicular entrance from 2.6m to 4m and reduction in setback from 5 metres to 4.2 metres is considered acceptable.

- The landscaping plan, submitted by way of Significant Further Information, is considered acceptable.
- House extensions are exempt under the Meath County Development Contribution Scheme 2016 – 2021.

### 3.2.2. Other Technical Reports

**Water Services Department:** No objection subject to Conditions.

**Irish Water:** No objection subject to Conditions.

## 4.0 Planning History

None for subject site.

## 5.0 Policy and Context

### 5.1. Development Plan

Meath County Development Plan 2013-2019 is the statutory plan for the area.

**Section 11.2.4** Development Management Standards for House Extensions.

**Section 11.2.3** Family Flat Extensions

**Section 11.2.4** Extensions

**Section 10.19.1** One Off Houses: Sight Distances and Stopping Sight Distances

**Section 10.19.2** Groundwater Protection and the Planning System. Policies RD POL 44 and RD POL 45 refer.

**Section 10.19.3** Wastewater Disposal. Policies includes;

RD POL 47 To ensure that the site area is large enough to adequately accommodate an onsite treatment plant and percolation area.

RD POL 48 To ensure all septic tank/proprietary treatment plants and polishing filter/percolation areas satisfy the criteria set out in the EPA 'Code of Practice Waste Water Treatment and Disposal

Systems Serving Single Houses (p.e. <10)', (2009) (or any other updated code of practice guidelines) in order to safeguard individual and group water schemes.

RD POL 49 To require a site characterisation report to be furnished by a suitably qualified competent person. Notwithstanding this, the Planning Authority may require additional tests to be carried out under its supervision.

RD POL 50 To ensure a maintenance agreement or other satisfactory management arrangements are entered into by the applicant to inspect and service the system as required. A copy of this must be submitted to the Planning Authority.

RD POL 51 To ensure that direct discharge of effluent from on-site waste water disposal systems to surface water is not permitted.

## **Appendix 15 The Meath Rural Design Guide**

### **5.2. Other Relevant Government Guidelines**

Development Management Guidelines (2007)

Code of Practice: Wastewater Treatment Disposal Systems serving Single Houses, EPA (2009)

Implementation of new EPA Code of Practice on Waste Water Treatment and Disposal Systems Serving Single Houses - Circular PSSP1/10

### **5.3. Natural Heritage Designations**

None



## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A third-party appeal was received from Stephen Early, who resides at the dwelling on the adjoining site to the west of the site. The following is a summary of the grounds of appeal.

#### ***Re. Boundary Wall and Land Ownership:***

- A condition was not placed in the grant of permission requiring that the appellant's boundary wall is not to be interfered with.
- The applicant is taking land which does not belong to them.

#### ***Re. Drainage:***

- The drainage plans submitted show the provision of a 'ring' (proposed access chamber) at the north-western corner of the site, which the appellant states is located on their property. No consent has been given for this.

#### ***Re. Removal of Trees:***

- The removal of the trees along the western boundary of the site will result in overlooking, loss of privacy and create a security risk to the dwelling on the adjoining site to the west.

#### ***Re. Overlooking:***

- The window on the western side elevation of the proposed first floor extension will result in overlooking and loss of privacy to the dwelling on the adjoining site to the west of the site. This window should be omitted or permanently glazed with obscure glass.

### 6.2. Applicant Response

None

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

The Planning Authority is satisfied that all matters outlined in the submission were considered in the course of its assessment of the planning application, as detailed in the Planning Report. The proposed development, as presented, is considered to be consistent with the policies and objectives within the Meath County Development Plan.

### 6.4. **Observations**

None

## 7.0 **Assessment**

7.1. The main issues for consideration are as follows;

- Land Ownership
- Overlooking

These are addressed below.

### 7.2. **Land Ownership**

7.2.1. The proposed development provides for an extension of the rear site boundary to the north-west, to facilitate the proposed development. The applicant is also proposing works outside the red line of the application site including the following;

- The provision of an access chamber serving proposed drainage works at the existing north-western corner boundary of the site, at a point where the piped drain to the rear of the neighbouring dwelling to the west enters the field drain to the rear of the subject site.
- The replacement of an existing 150mm pipe at the recently excavated land ditch along the new northern boundary of the site with a new 300mm drainage pipe and the back filling in of the ditch.

7.2.2. I should note that during site inspection, I could find no evidence of a recently excavated land ditch along the line of the proposed new northern boundary of the site. The only ditch evident was that along the existing northern boundary of the site.

- 7.2.3. Regarding these proposed works, the appellant expresses the following concerns;
- The applicant is taking land which does not belong to them.
  - The proposed access chamber serving proposed drainage works at the north-western corner of the site is located on the appellant's property.
- 7.2.4. Having regard to the Grounds of Appeal letter submitted, the appellant states that he *'took in the existing ditch (to the rear of his property) and piped it in 1982 to the knowledge and no objection of the land owners to the north'*. The appellant follows this by stating that *'McKevitt King (the architects representing the applicant) have placed a ring on their new plan on my property without permission'*. This 'ring' relates to the proposed access chamber serving proposed drainage works at the existing north-western corner boundary of the site.
- 7.2.5. The site layout plan submitted by way of Significant Further Information details the access chamber as being located outside the red line of the application site. It is unclear from the grounds of appeal letter submitted, whether or not the land being taken by the applicant and the location of the proposed access chamber is in the ownership of applicant, the land owner to the north of the site or the appellant. Furthermore, it is noted that the location of the proposed new 300mm drainage pipe along the new extended northern boundary of the site, is located outside the boundary of the site as outlined in red.
- 7.2.6. In consideration of this issue, Section 5.13 of the *Development Management Guidelines (2007)* refers to 'Issues relating to Title to Land' and states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land and that these are ultimately matters for resolution in the Courts. The Guidelines advise that where there is doubt in relation to the legal title of the applicant, the Planning Authority may decide to grant permission, however a grant of permission is the subject of Section 34(13) of the *Planning and Development Act 2000 (as amended)*. Section 34(13) of the *Planning and Development Act* states that 'a person is not entitled solely by reason of permission to carry out any development'.
- 7.2.7. Having regard to the above, and in the absence of absolute certainty that the applicant has sufficient legal interest to carry out the proposed development, I

consider it inappropriate to refuse permission for the proposed development on these grounds.

7.2.8. I recommend, therefore, that this ground of appeal should not be upheld.

### 7.3. **Overlooking**

7.3.1. The appellant expresses concern that the proposed development would result in overlooking, loss of privacy and create a security risk to the dwelling on the adjoining site to the west of the site by reason of the following;

- The removal of the trees along the western boundary of the site.
- The window on the side western elevation of the proposed first floor side extension.

7.3.2. The applicant submitted by way of Significant Further Information a landscape plan, prepared by Jane McCorkell Landscape Architect. This plan states that the existing neighbours trees along the western boundary of the site are to be protected, that a row of new mixed indigenous hedgerow is to be planted along the western boundary and eight new specimen trees are to be planted to the western side of the dwelling, with details of tree type provided.

7.3.3. It was noted during site inspection that the trees along the western boundary of the site, within the adjoining site to the west, comprise a dense row of mature coniferous and deciduous trees.

7.3.4. The proposed development provides for the provision of a window ope on the side western elevation of the proposed first floor side extension. This window would serve a bedroom. A separation distance of 41 metres would be maintained between this window and the eastern side elevation of the dwelling on the adjoining site to the west. A separation distance of 15.5 metres would be maintained between the window and the side western boundary of the site at its nearest point. Given a) the separation distances provided, b) the dense tree lined boundary of the adjoining site, and c) the proposed tree planting and hedgerow landscaping measures in the landscape plan submitted, it is my view that the proposed window on the side elevation of the proposed extension would not result in overlooking or loss or privacy to the dwelling on the adjoining site to the west. The removal of the trees along the

western boundary of the site would not create an increased security risk to the dwelling on the adjoining site to the west.

7.3.5. I recommend, therefore, that this ground of appeal should also not be upheld.

#### **7.4. Screening for Appropriate Assessment**

7.4.1. The closest Natura 2000 site to the appeal site is the River Boyne and River Blackwater SAC (Site Code: 002299) which is located 2km to the north-west of the site. Taking into consideration the nature and scope of the proposed development, the wastewater treatment system proposed to serve the existing dwelling, the details provided on the site characterisation form and the existing residential development in the immediate vicinity, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

### **8.0 Recommendation**

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

### **9.0 Reasons and Considerations**

9.1. Having regard to the provisions of the Meath County Development Plan 2013-2019, the nature and scale of the proposed development and the suitability of the site for the safe disposal of domestic effluent and surface water drainage, it is considered that, subject to compliance with the Conditions set out below, the proposed development would not adversely impact on the residential amenity of neighbouring property. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 17<sup>th</sup> day of June 2019, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed family flat extension shall be used solely for that purpose, and shall revert to use as part of the main dwelling on the cessation of such use.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity.</p>
3.	<p>The garage shall be used solely for non-habitable uses ancillary to the main house and shall not be used for the carrying out of any trade or business or sold, let or otherwise transferred or conveyed save as part of the dwelling.</p> <p><b>Reason:</b> In the interest of clarity.</p>
4.	<p>The external finishes of the proposed extensions shall be the same as those of the existing dwelling in respect of colour and texture.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>(a) The proposed entrance shall be constructed as per the Site Layout Plan (PP02) received by the Planning Authority on the 08/03/2019.</p>

	<p>(b) Any entrance gates shall open inwards towards the site and not outwards onto the public road.</p> <p>(c) All roadside hedges / grass verges to the west and east of the entrance shall be trimmed and regularly maintained so as to maintain sightlines at all times on exiting the proposed entrance.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
6.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p><b>Reason:</b> To ensure adequate servicing of the development, and to prevent pollution.</p>
7.	<p>The applicant or developer shall enter into a water connection agreement with Irish Water prior to the commencement of this development.</p> <p><b>Reason:</b> In the interest of public health.</p>
8.	<p>(a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>(b) The existing septic tank shall be decommissioned, emptied and made safe by a registered operator and the lands suitably reinstated.</p> <p>(c) Within three months of the decommissioning of the existing septic tank and the installation of the proposed effluent treatment system and polishing filter, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the existing septic tank has been decommissioned and the proposed effluent treatment system and polishing filter has been installed and commissioned in accordance with the approved details and is working</p>

	<p>in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>(d) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the installation of the proposed effluent treatment system and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p><b>Reason:</b> In the interest of public health.</p>
9.	<p>The landscaping scheme shown on Drg. Ref. PP219, as submitted to the Planning Authority on the 17<sup>th</sup> day of June, 2019 shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
10.	<p>All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional</p>



	<p>circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
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Brendan Coyne  
Planning Inspector

31<sup>st</sup> October 2019