



An
Bord
Pleanála

Inspector's Report

ABP-305295-19

Development

Retention of a ground floor extension and alterations to attached garage, replacement of a full length window with external door and the construction of metal glazing track on top of existing flat roof. Permission for glazed balustrade around flat roof and use as a first-floor roof terrace.

Location

Rock Cottage, Downeen,
Rosscarbery, Co. Cork

Planning Authority

West Cork County Council

Planning Authority Reg. Ref.

19/397

Applicant(s)

Sue Brown

Type of Application

Permission

Planning Authority Decision

Split Decision

Type of Appeal

First Party V. Split Decision

Appellant(s)

Sue Brown

Observer(s)

John Hunt

Date of Site Inspection

29th October 2019

Inspector

Elaine Power

1.0 Site Location and Description

- 1.1. The subject site is located in Downeen, approx. 2km south of Rosscarbery. The area is characterised by ribbon development and agricultural lands with associated buildings and houses.
- 1.2. The site has a stated area of 0.086ha and currently accommodates a one and a half storey, dormer style semi-detached house. The house was previously extended in 2005 and has a gross floor area of 146sqm. The site is bound to the north by the public road to the south by open fields, to the east by the adjoining house and to the west by a two-storey detached house. The rear garden has a minimum length of approx. 48m and is approx. 14m in width. The rear garden is bound by mature vegetation.
- 1.3. Off street car parking is provided to the front of the house.

2.0 Proposed Development

- 2.1. It is proposed to retain: -
 - An 11sqm ground floor extension and alterations to the original attached garage]for the partial use of the garage for living accommodation;
 - An amendment to condition no. 3 of Reg. Ref. 05/4860 for the replacement of a full-length window with an external door on the rear elevation at first floor level.
 - The construction of a metal glazed balustrade track on top of the parapet of the existing flat roof of the ground floor level.
- 2.2. Permission is also sought for the use of an existing single storey flat roof, located to the rear of the house as a terrace. The works include the provision of a glazed balustrade, with a maximum height of 1.8m around an existing flat roof.
- 2.3. ***Unsolicited Further Information lodged 25th July 2019***

The applicant responded to a third-party submission received and provided 2 no. letters of support from local residents. The information submitted did not result in any alterations to the development.

3.0 Planning Authority Decision

3.1. Decision

Split Decision

Retention permission was granted subject to 5 no. conditions for a ground floor extension and alterations to the original attached garage and for the partial use of the garage for living accommodation.

Condition no. 3 omitted the metal glazed track and required that the first-floor external door be replaced with a dormer style window as granted under Reg. Ref. 05/4860.

Condition no. 5 required that there would be no direct access onto the flat roof of the rear ground floor extension.

Permission was refused for the provision of a glazed balustrade around an existing flat roof for the use of an as a first-floor rear terrace for the following reasons.

1. *The proposed development would contravene materially a condition attached to permission granted under 05/4860 and would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development would seriously injure the residential amenities of property in the vicinity of by reason of overlooking and would, therefore, be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. ***Planning Reports***

Reports from the Area Planner, Senior Executive Planner and the Senior Planner raised no concerns regarding the ground floor extension and alterations for the partial use of the garage for living accommodation. Serious concerns were raised regarding the use of the existing ground floor rear extension as a first-floor terrace and recommended that permission be refused for the reasons noted above.

3.2.2. **Other Technical Reports**

Area Engineer: No objection

3.3. **Prescribed Bodies**

Irish Water: No objection

3.4. **Third Party Observations**

A third-party objection was received from John Hunt who raised concerns of undue overlooking and non-compliance with the planning process.

4.0 **Planning History**

Reg. Ref. 05/4860: Permission was granted in 2006 for a rear extension. Condition no. 3 stated: -

The proposed dormer window on the rear elevation of the property shall be used solely as a window and there shall be no means of direct access onto the flat roofed extension from the first floor of the dwelling.

Reason: In the interest of the residential amenities of adjacent properties.

5.0 **Policy Context**

5.1. **Cork County Development Plan, 2014**

The subject site is located on unzoned lands. Policy ZU 2-3: Land Use Zoning of Other Lands is considered relevant.

The site is located on Scenic Route S78 . The route follows roads on both sides of Rosscarbery Bay. The site is located in an area identified as Indented Estuarine Coast in Appendix E of the Plan. These locations are designated as areas of very high landscape value and sensitivity and are of national importance. Section 13.6 – *Landscape Character Assessment of County Cork* states that these landscapes are extra vulnerable landscapes which are likely to be fragile and susceptible to change.

5.2. **Natural Heritage Designations**

There are no designated areas within the vicinity of the site.

5.3. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal against the Planning Authority's decision to refuse permission for the first-floor balcony to the rear of the existing house and against conditions no. 3 and 5 which omitted an external access door and metal glazed track fitted to the parapet of the existing flat roof has been submitted. The applicant has requested that the Board considered the application 'de novo' and have regard to the merits of the development to be retained and carried out.

The submission addresses the reason for refusal and is summarised below: -

- A detailed history of the subject site was provided.
- The development does not contravene any local planning policies or objectives. The Planning Authority did not fully assess the application on its

merits and placed too much emphasis on the planning history. The planning process allows for amendments to previous permissions.

- The height and provision of opaque glazing would ensure that the terrace would not negatively impact on the existing residential amenities, in terms of overlooking. It is also noted that the adjoining property to the west does not have an first-floor windows on the eastern elevation. The site is further screened by the existing garage and mature hedging.
- The applicant is amenable to a condition regarding additional screening of the terrace.
- Details of permissions granted by An Bord Pleanála for rear balconies are included.

A letter of support from the adjoining neighbour to the east was submitted with the appeal.

6.2. Planning Authority Response

No comments.

6.3. Observations

An observation was received from John Hunt whose property is located to the west of the subject site. The concerns raised are summarised below:

- There is no objection to the conversion of the garage for habitable space.
- Reference to the original objection made to the planning authority
- The terrace contravenes a condition of the original planning permission and planning enforcement notices.
- The opaque glass is not in keeping with the area.

7.0 Assessment

- 7.1. The applicant has requested that the Board considered the application 'de novo' and have regard to the merits of the development to be retained and carried out. The

main issues relate to residential amenities. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Residential Amenity
- Appropriate Assessment

7.2. Residential Amenity

- 7.2.1. The Planning Authority refused permission for the use of the flat roof as a terrace for 2 no reasons. The first reason related to non-compliance with condition no. 3 of Reg. Ref. 05/4860 and the second reason related to undue overlooking of adjoining properties.
- 7.2.2. The existing house has a gross floor area of 146sqm which includes a single storey rear extension. The extension was constructed under Reg. Ref. 05/4860. This application proposes to convert the flat roof of the single storey rear extension to a first-floor roof terrace. The works to the flat roof include the provision of a glazed balustrade, with a height of between 1.1m and 1.8m. To facilitate access to the roof terrace it is proposed to amend condition no. 3 of Reg. Ref. 05/4860, which required that there be no direct access onto the flat roof, by retaining an external door from the first-floor level to the roof.
- 7.2.3. It is my view that, the wording of condition no. 3 of Reg. Ref. 05/4860 does not preclude future amendments and as such this application should be assessed on its merits.
- 7.2.4. The proposed terrace is L-shaped. It has a maximum width of 8.5m and a maximum depth of 4.5m. Concerns were raised in the observation that the proposed use of the existing first floor flat roof as a first-floor terrace would result in undue overlooking and that the opaque balustrade is not in keeping with the area.
- 7.2.5. It is noted that the adjoining semi-detached house 'Roaches Cottage' has a similar rear extension and that a letter of support to this application has been included with

the appeal. The observer's property, which is located to the south west of the appeal site, is set back into the site. This layout results in the front building line of the observer's house running parallel to the rear building line of the appeal site 'Rock Cottage'. The proposed terrace is located a minimum of 7m from the gable end of the adjoining property. It is noted that there are no first-floor windows located on the gable end of the adjoining house. To reduce the potential for overlooking it is proposed to provide a minimum 1.8m high opaque glass screen along the east and west (sides) of the terrace. An additional 1.1m high glass safety screen is proposed along the southern boundary of the terrace. Having regard to the pattern of development in the area, the separation distances to adjoining properties and to the proposed screening, it is my view that the provision of a roof terrace at this location would not result in undue overlooking of adjoining properties.

7.2.6. The observer has also stated that the proposed opaque balustrade is not in keeping with the area. There is an existing house located to the south west of the observer's site. This house has a rear balcony which incorporates contemporary materials. While it is noted that the majority of houses in the surrounding area are traditional in design, it is my opinion that high-quality contemporary design features provide for a distinctive residential character which would enhance the area.

7.2.7. It is also proposed to retain an 11sqm rear extension to the existing garage and convert part of the garage to habitable space. The garage extension has a pitched roof with a maximum height of 3.2m to match the existing roof. A window is provided on the rear elevation. Access to the garage is from the rear garden. There is no link between the existing house and the garage. Having regard to the design, layout and limited scale of the development it is considered that it would not negatively impact on the existing residential amenities of adjoining properties in terms of overlooking, overshadowing or have an overbearing impact.

7.3. ***Appropriate Assessment***

Having regard to the nature and small scale of the proposed development within a serviced urban area and the distance from 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.

8.0 Recommendation

I recommend that permission be granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the existing pattern of development in the area and to the nature and small scale of the development to be retained and carried out, it is considered that, subject to compliance with the conditions set out below, the development would be acceptable and would not seriously injure the amenities of the area, in terms of overlooking. The proposed development would, therefore 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. 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. A minimum 1.8m high opaque glazed screen shall be permanently retained on the eastern and western sides of the first-floor terrace.

Reason: In the interest of residential amenity

3. The garage extension shall be used solely for purposes incidental to the enjoyment of the dwelling house.

Reason: In the interest of clarity.

4. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity

Elaine Power

Planning Inspector

15th November 2019