



An
Bord
Pleanála

Inspector's Report

ABP-305365-19

Development	Development consisting of the extension of dwelling, appeal of condition no. 11.
Location	7 Upper John Street, Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	19262
Applicant(s)	David Fowley
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	First Party
Appellant(s)	David Fowley
Observer(s)	None.
Date of Site Inspection	5 th November.
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The appeal site forms part of an end of terrace dwelling which faces onto Upper John Street. There is an existing lane to the west of the site which provides rear access to the dwellings along this section of Upper John Street and to a parking area which serves no. 7A Upper John Street.
- 1.2. The existing building has been extended at ground floor and contains a stone shed at the rear of the garden which directly opens out to the lands to the rear. The site is enclosed with a 2 metre stone wall on both sides and there is an access gate within the western boundary. This boundary follows the western building line of the dwelling and at the rear of the dwelling the boundary wall direction moves to the east of the access lane which results in slanted rear garden area.
- 1.3. I noted at the time of inspection that many of the dwellings within this terrace have been extended at both ground and first floor and due to the shape of the rear gardens many of these extensions have been built at angles following the direction of the boundary walls.

2.0 Proposed Development

- 2.1. It is proposed to construct the following development:
 - Demolition of single storey rear extension.
 - Construction of 2 storey extension to rear.
 - Conversion of attic space to bedroom.
 - Construction of a box dormer to rear and roof windows to front.
 - Addition of 2 no. windows in side gable.
 - Extension to rear shed.

3.0 Planning Authority Decision

3.1. Decision

Sligo County Council determined to grant permission subject to conditions. Condition no. 11 is of relevance to this appeal and reads as follows:

- The eastern wall of the proposed first floor extension shall be realigned to protect perpendicular to the rear wall of the existing dwelling. Proposals in this regard including floor plans and elevation drawings shall be submitted for the written agreement of the planning authority prior to the commencement of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planners report is consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- Area Engineer – no objection

3.3. Prescribed Bodies

- Irish Water – no objection subject to conditions.

3.4. Third Party Observations

- None

4.0 Planning History

There is no recently recorded history for this site.

5.0 Policy Context

5.1. Development Plan

Sligo Development Plan 2017-2023

- Section 13.3.14 House extensions
 - the extension should be subordinate to the main building. Exceptions will be considered when the building is so small that a subordinate

extension would not be able to reasonably accommodate the needs of the occupants.

- the design should reflect that of the main building, generally following window proportions, detailing and finishes, texture, materials and colour.
- the extension shall be designed to ensure that no overshadowing or overlooking of adjacent residential properties occurs.

5.2. Natural Heritage Designations

The nearest Natura 2000 sites to the appeal site are as follows:

- Lough Gill SAC is located c.400m north east of the appeal site.
- Cummeen Strand/Drumcliff Bay SAC is located c. 652m north east of the appeal site.

5.3. EIA Screening

5.4. 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 at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

David Mulcahy Planning Consultants Ltd has prepared the grounds of appeal on behalf of the applicants. The appeal is in relation to condition no. 11 which requires the first floor eastern boundary wall to be redesigned as perpendicular to the dwelling. The issues raised within the grounds of appeal can be summarised as follows:

- Condition 11 would severely compromise the first floor bedroom and will make it unfeasible.

- The appeal site is a city centre location in a constrained site whereby impacts in terms of overshadowing will be more pronounced.
- Older buildings in these areas have suffered from lack of investment and have a noticeable absence of residential occupancy.
- In order to attract residential use back to these areas, investment is required.
- The applicant is attempting to do this.
- The neighbouring property no. 6 is currently vacant and will require significant investment.
- The angled nature of the rear gardens means that some degree of overshadowing will occur to no. 6.
- The realignment of the eastern wall would not improve this for no.6.
- The rear window of no.6 will receive sufficient light.
- Owners of no.6 did not lodge any objection to the proposed development and they have submitted a letter of support.

6.2. Planning Authority Response

Sligo County Council have submitted a response to the appeal which can be summarised as follows:

- The reworked room would be feasible.
- The two-storey extension coupled with the first floor extension at no. 6 would create a small enclosed space to the rear of no. 6 which would seriously detract from the amenity of no.6.
- The letter of support from the owner of no. 6 is noted, no such letter was submitted with the planning application.

6.3. Observations

- None

Nature of appeal

- 6.4. Having regard to the nature of the development and the nature of the conditions the subject of the appeal, it is considered that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. It is recommended, therefore, that the appeal can be considered on the basis of the appealed conditions only pursuant to section 139 of the Planning and Development Act 2000 (as amended).

Appeal Conditions

- 6.5. Condition no. 11 seeks to realign the first floor eastern boundary in order to reduce any potential overshadowing of the rear first floor window of no. 6 upper John Street which is directly adjacent to the appeal site. The applicant draws the Boards attention to a letter of support from the owner of no. 6 and states that this area is within the city in an area where vacancy rates are high and there is a need to reintroduce residential uses in order to regenerate the area.
- 6.6. It is also contended by the applicant that in constrained sites within the city such as the appeal site, there will undoubtedly be incidences of overshadowing or overlooking and therefore the thresholds should be higher in order to provide residential accommodation within the city.
- 6.7. I noted from site inspection that the rear window of no. 6 is northwest facing and is adjacent to a first-floor extension within its own boundary. Given the orientation of the building and the set back and limited depth of the proposed first floor extension I consider the loss of light to be minimal and would not be so significant as to warrant a redesign of the proposed development. It is important to note that in order to deliver on the principles of compact growth as required by the National Planning Framework and to achieve the regeneration and revitalisation of cities and urban areas a degree of flexibility must be provided for in relation to issues such as overshadowing.
- 6.8. It is also of note that the redesign of this upper floor would have implications for the load bearing ground floor walls and as such would necessitate a redesign of the proposed ground floor element of the extension.

6.9. Having regard to the foregoing I consider condition no. 11 to be unreasonably onerous on the applicant and unjustified given the high levels of vacancy in this street and that the owner of the adjacent property is in support of the development.

Appropriate Assessment

6.10. Having regard to the minor nature of the development, and the separation distance to any 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.

7.0 Recommendation

7.1. Having regard to the nature of the conditions under appeal, I am satisfied that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. I consider therefore that the appeal should be dealt with in accordance with the provisions of section 139 of the Planning and Development Act, 2000 (as amended). I recommend that the planning authority be directed to REMOVE Condition No 11.

8.0 Reasons and Considerations

Having regard to;

- (a) the provisions of the Sligo County Development Plan 2017-2023 which encourages the reuse of vacant houses,
- (b) The provisions of the National Planning Framework which encourages the reuse of existing building stock for housing.

It is not considered that Condition No 11 is necessary or justified in this case.

Sarah Lynch
Planning Inspector

29th November 2019