



An  
Bord  
Pleanála

## Inspector's Report ABP 305452-19

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<b>Development</b>	Erection of a two-storey detached building containing garage on ground floor with storage area on first floor
<b>Location</b>	17 Auburn Terrace, Athlone, Co Westmeath.
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	197071
<b>Applicant</b>	Kevin Fenton
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Kevin Fenton
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	3 <sup>rd</sup> January 2020.
<b>Inspector</b>	Brendan Coyne



## 1.0 Site Location and Description

1.1. The site (0.007 Ha) is located on the northern side of a cul-de-sac laneway to the rear of Auburn Terrace and comprises a mid-row detached garden to the rear of dwelling No. 17 Auburn Terrace. The garden is currently overgrown with shrubs, trees and vegetation. Lands adjoining the site to the north comprise the grounds of Athlone Fire Station. A number of gardens to the west of the site contain garage/storage structures or domestic sheds. The remaining gardens along the laneway are either landscaped / under lawn or overgrown. Auburn Terrace is a designated Architectural Conservation Area.

## 2.0 Proposed Development

2.1. Permission sought for the following;

- Construction of a 2-storey detached building (61sq.m.) comprising a domestic garage at ground floor level and storage area at first floor level – ancillary to existing dwelling No. 17 Auburn Terrace.
- Provision of 1.5m high side boundary walls.
- Associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Westmeath County Council refused permission for the proposed development. The reasons for refusal were as follows;

1. *Having regard to the scale and form of the proposed development that is considered excessive for ancillary domestic storage together with the extent of site coverage, it is considered that the proposed development, as presented, has not been adequately justified and presents an unacceptable form of development that would serve to exacerbate the ad-hoc piecemeal approach of development in the area. The proposed development of this scale and form*

*thereby considered as inappropriate and to permit same would be contrary to the proper planning and sustainable development of the area.*

2. *The proposed development located on serviced and residentially zoned backlands is considered contrary to the policy provisions of the National Planning Framework (NPF) – Project Ireland 2040 that has a specific focus on the concept of Compact Growth as a tool to make better use of under-utilised land and buildings , including ‘infill’, ‘brownfield’ lands. It is considered that the development presents a piecemeal fragmented development approach that would negatively impact on the potential to positively regenerate urban backlands. The proposed development, as presented, does not provide for the sustainable regeneration of backland brownfield lands as promoted in the NPF and as per Section 3.7 of the Athlone Town Development Plan 2014 wherein it is a policy, P-SR2 – ‘To encourage and promote the development of underutilised infill and backland development on the town subject to development management criteria being met’. The proposed development is thereby considered as contrary to the proper planning and future sustainable development of the area.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports (14<sup>th</sup> May 2019 and 22<sup>nd</sup> August 2019)**

Basis for the Planning Authority Decision. Includes:

- Concern regarding the scale, design and layout of the proposed development.
- Prior to issuing a decision, the applicant was requested to provide further information providing a revised proposal comprising a single storey structure with a floor area not exceeding 30 sq.m., minimum setback of 1m from site boundaries and the omission of sanitary facilities and roof lights.
- The applicant did not respond to the further information request and modify the proposal to an appropriate domestic scale and did not present a reasonable justification for its size of 61 sq.m. over 2 floors.
- While the applicant cites precedent set by approval of similar properties pertaining to No.'s 7 and 12 Auburn Terrace, the scale and form of these developments were

not designed for domestic storage but to accommodate residential use. Thus, the argument presented by way of precedent is not accepted in this instance.

- There are no provisions in the Development Plan to permit development based on precedent. It is not the policy of the Council to permit development arising from undesirable precedent as presented in the haphazard style of development that has emerged in the locality.
- The proposed development makes a poor use of serviced zoned residential lands and presents a piecemeal development approach that would limit the wider regeneration / redevelopment of strategically located zoned urban backland.
- The proposal does not provide for the sustainable regeneration of backland brownfield lands as promoted in the NPF and as per Section 3.7 of the Athlone Development Plan wherein policy P-SR2 seeks 'To encourage and promote the development of underutilised infill and backland development on the town subject to development management criteria being met'.
- The proposal is inappropriate in terms of site coverage, scale and design for ancillary domestic storage and to permit same would exacerbate the impact of the undesirable precedent presented on neighbouring lands.

### 3.2.2. Other Technical Reports

#### *District Engineers Report:*

No objections subject to Conditions.

## 4.0 Planning History

### Application Site

**P.A. Ref. 07/3013** Permission **granted** in 2007 for the construction of a two-storey detached building containing a domestic garage at ground floor level and a storage area at first floor level, as part of the existing residence.

### Adjacent Sites along the laneway

**P.A. Ref. 197207 - No.13 Auburn Terrace** - Permission **granted** in January 2020 for the demolition of an existing shed and the construction of a new single storey shed with storage space and all associated site works to the rear of the dwelling.

**P.A. Ref. 073182 - No.14 Auburn Terrace** - Permission **granted** in 2008 to demolish a derelict garage and to construct a new garage with storage space at ground floor level with ancillary office space at first floor level and all associated siteworks to the rear of the residence.

**P.A. Ref. 053041 - No.18 Auburn Terrace** - Permission granted in 2005 to construct a two-storey detached building containing a domestic garage at ground floor level with a storage area at first floor level, as part of the existing residence.

**P.A. Ref. 03814199 & ABP Ref. PL34 .203522 - No.12 Auburn Terrace:**

Permission **granted** in 2003 for the demolition of an existing derelict garage and the construction of a garage, storage space/workshop at ground level and study/storage space at first-floor level, as part of residence.

Condition of Note - No.1: The proposed first floor study/storage area shall be reduced in area from 54 sq.m. to 27 sq.m. Reason: To limit the scale of the proposed development and ensure the use remains ancillary to the dwelling.

**P.A. Ref. 03/4200 & ABP Ref. PL34.203519 - No.7 Auburn Terrace**

Permission **granted** in 2003 for the construction of a garage and storage space/workshop at ground floor level and study/storage space at first-floor level, as part of existing residence.

Condition of Note - No.1: The proposed first floor study/storage area be reduced from 54 sq.m. to 27 sq.m. Reason: To limit the scale of the proposed development and ensure the use remains ancillary to the dwelling.

**P.A. Ref 02814092 & ABP Ref. PL34 .129927 - No.8 Auburn Terrace**

Permission **granted** in 2002 to demolish an existing garage and store and to construct a new single garage, store, workshop and small office at first floor level.

## 5.0 Policy and Context

### 5.1. Development Plan

#### 5.1.1. Athlone Town Development Plan 2014-2020

**Zoning:** The site is zoned objective 'O-LZ1' which seeks 'To provide for residential development, associated services and to protect and improve residential amenity'.

**S. 11.18** The site is located in Architectural Conservation Area No. 9. - Coosan Point Road

**P-BH5** To consider designation of those areas that have particular environmental qualities that derive from their overall layout, design and unity of character as Architectural Conservation Areas (ACAs) and that the character of such areas is preserved.

**P-BH6** To ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the plot size, proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio and building lines.

**P-SR2** To encourage and promote the development of underutilised infill and backland development in the town subject to development management criteria being met.

**S. 12.9.5** refers to Site Coverage and states that 'In order to prevent adverse effects of overdevelopment in inner urban locations site coverage of between 70% and 80% would be appropriate. However, some flexibility will be applied in the interests of achieving a more sustainable use of inner urban/town centre land, when design is of exceptional merit'.

**Table 12.11 Car Parking Standards** - requires a minimum 1 no. parking space for a 2+ bedroom dwelling.

## **Map ATC 11 Town Centre Framework Plan**

### **5.2. National Guidelines**

National Planning Framework – Project Ireland 2040

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

The site is located 1.1km to the south east of the Lough Ree SPA (Site Code: 004064) and SAC (Site Code: 000440).

## **6.0 EIA**

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.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

- 7.1.1. A first-party appeal was received from Kiaran O'Malley, Town Planning Consultant, representing the Applicant Kevin Fenton, against the decision made by the Planning Authority to refuse permission for the proposed development.

The following is a summary of the grounds of appeal.

### **7.2. Re. Reason No. 1**

- The scale and form of the proposed development is the same as those approved and constructed at No.'s 7, 8 and 12 Auburn Terrace, none of which overwhelm the laneway or residential units along Auburn Terrace.



- By replicating the form of previously approved and constructed development, the proposal would not exacerbate ad-hoc piecemeal development.
- Any alleged unauthorised development at adjacent property should be addressed by way of enforcement proceedings and not used to infringe the applicant's development rights and expectations.
- The applicant is applying for permission for development which was previously permitted but has since lapsed.
- In response to the further information request, the applicant provided the option of omitting any sanitary services within the building.

### 7.3. **Re. Reason No. 2**

- The development potential of the appeal site, with an area of 77 sq.m., is exceptionally limited due to its very small size, its shape and its location to the rear of the dwelling No. 17 Auburn Terrace and eastern end of the laneway
- The proposed development in its current form is not suitable or adaptable for residential accommodation by reason that it would fail to comply with Development Plan development management residential standards e.g. with regards private amenity space. Planning permission would be required for a change of use of the structure to a residential dwelling.
- The site does not form part of a larger block of 'urban backland' as referred to in the reason for refusal and is not identified in the Athlone Town Development Plan as an opportunity site on Map ATC11.
- The logical approach to developing the laneway is on a site by site basis where each development complies with the Development Plan and has regard to the character of the laneway, that has been set by similar development at No.'s 7, 8 and 12.
- The Council has no planning proposals for a comprehensive or co-ordinated redevelopment of the rear gardens of Auburn Terrace.
- The proposal does not contravene the policy provisions of the National Planning Framework or the Athlone Town Development Plan.

- The reference to compact growth from the National Planning Framework (NPF) is not relevant to a proposal for a domestic garage with storage space, ancillary to the residential use of a main dwelling. The NPF reference in the planning officer's report is in the context of housing.

#### 7.4. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

#### 7.5. **Observations**

None

### 8.0 **Assessment**

8.1. The main issues for consideration are those referred to in the 2 no. reasons for refusal, as cited by the Planning Authority. These are addressed under the following headings;

- Scale, Form and Site Coverage
- Piecemeal Fragmented Development

#### 8.2. **Scale, Form and Site Coverage (Planning Authority's Reason for Refusal No. 1)**

8.2.1. The Planning Authority refused permission for the proposed development on the grounds that its scale, form and extent of site coverage are excessive and has not been adequately justified. The Planning Authority considers the proposal presents an unacceptable form of development which would exacerbate the ad-hoc piecemeal approach of development in the area.

8.2.2. The applicant has put forward a case justifying the proposed development, as set out in Section 7.0 above.

8.2.3. The site of the proposed development has a width of 5.3m and a depth of 14.5m-15.4m. The proposed building extends the width of the site and has a depth of 8m. Given that the proposal has a ground floor area of 42 sq.m. and the site is 77 sq.m, the proposed development has a site coverage of c. 55%. This is below the requirements of Section 12.9.5 of the Athlone Development Plan which requires that residential development provide a site coverage of between 70% and 80% in inner

urban locations. It my view, therefore, that the site coverage of the proposed development is not excessive and would not lead to overdevelopment of the site.

- 8.2.4. The proposal has a pitched roof profile and a ridge height of 7 metres. The front elevation of the proposal is set back 4.9m from the edge of the laneway and its rear elevation is setback c.1.5m – 2.2m from the rear / northern boundary. The proposal incorporates a garage door and pedestrian entrance door on the front elevation and 2 no. roof lights on its front roof slope. The rear elevation incorporates 1 no. window ope and a pedestrian access door and the rear roof slope incorporates 2 no. roof lights. As set out in Section 4.0 above, planning permission has been approved by An Bord Pleanála for similar garage / storage space buildings on nearby adjacent gardens to the rear of dwellings No.'s 7, 8 and 12 Auburn Terrace. The layout, scale, form and design of these buildings are similar to the proposed development. The garage units to the rear of dwellings No.'s 7 and 8 are attached to each other. It is noted that Conditions imposed on the garage / storage buildings to the rear of No.'s 7 & 12 Auburn Terrace required that the first-floor study/ storage areas be reduced from 54 sq.m. to 27 sq.m. The floor area of the first-floor storage space within the proposed building is 20.6 sq.m. It is considered that the layout, scale form and design of the proposed development is similar to the existing permitted pattern of development along the laneway. It is my view, therefore, that the proposed garage / storage building ancillary to the main dwelling No. 17 would not create an unacceptable form of development and would not exacerbate an ad-hoc piecemeal approach of development along the laneway, as put forward by the Planning Authority.
- 8.2.5. The Planning Authority report states that a number of adjacent permitted garage / storage buildings have been developed into unauthorised residential units, which create undesirable precedent. Any unauthorised development at adjacent sites should be dealt with by enforcement proceedings, which is a function of the Council. In order to restrict use and prevent unauthorised development at the subject site, a Condition should be imposed, in the event of a grant of permission, restricting the use of the proposed building to non-habitable use ancillary to the main house.
- 8.2.6. In consideration of the above, I recommend that the appeal should succeed in relation to the Planning Authority's first reason for refusal.

### **8.3. Piecemeal Fragmented Development (Planning Authority's Reason for Refusal No. 2)**

- 8.3.1. The Planning Authority refused permission for the proposed development on the grounds that the proposal presents a piecemeal fragmented development approach that would negatively impact on the potential to positively regenerate urban backland at this location. The Planning Authority considers that such development would be contrary to the policy provisions of the National Planning Framework and Policy P-SR2 of the Athlone Town Development Plan which seeks the sustainable regeneration of underutilised backland and infill sites.
- 8.3.2. The appeal site comprises the rear garden of No. 17 Auburn Terrace, which is currently overgrown with shrubs, trees and vegetation. The site is zoned objective 'O-LZ1' which seeks 'To provide for residential development, associated services and to protect and improve residential amenity'. The use class 'residential' is permitted in principle under such zoned lands. As such the development of a domestic garage and storage space is acceptable in principle subject to accordance with relevant policies and standards of the Development Plan. The site is not identified as an 'opportunity site', as detailed on Map ATC 11 of the Athlone Development Plan.
- 8.3.3. As detailed in Section 4.0 above, An Bord Pleanála granted permission for similar development in the gardens to the rear of dwellings No.'s 7,8 and 12 Auburn Terrace. Westmeath County Council granted planning permission in March 2007 for the same development on the application site under P.A. Ref. 07/3013 (now expired). While the proposed development does not form part of a co-ordinated approach for the re-development of gardens to the rear of Auburn Terrace, it is considered that its layout, form and design is consistent with the existing permitted and constructed garage / storage units along the laneway. The proposed development would not prejudice the future development of adjoining sites and is designed in such a manner whereby it can be continued to either side, if future development opportunity arises. The proposal would not impact on the visual or residential amenity of the area or detract from the character of the of the Architectural Conservation Area in which it is located. Given the context, nature and scale of the proposed development, it is my view that the proposal would not be contrary to Policy P-SR2 of the Athlone Development Plan or the objectives of the National Planning Framework. For this reason, I recommend that the

appeal should succeed in relation to the Planning Authority's second reason for refusal.

#### 8.4. **Screening for Appropriate Assessment**

Having regard to nature and scale of the proposed development to provide a garage and storage space ancillary to a residential dwelling in a fully serviced and zoned residential area and the nature of the receiving environment, 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.

#### 9.0 **Recommendation**

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

#### 10.0 **Reasons and Considerations**

10.1.1. Having regard to the residential land use zoning of the site, the pattern of permitted development along the laneway, the size of the site and the layout and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area and would not constitute piecemeal development. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### 11.0 **Conditions**

1.	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 7th day of August 2019, except as may otherwise be required in order to comply with the
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	<p>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 building 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>
3.	<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>
4.	<p>All public service cables to the proposed development, including electrical, telephone cables and associated equipment shall be located underground throughout the entire site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>The front of the proposed building shall be landscaped with suitable trees, shrubs or hedging which shall mainly be of indigenous species. Details shall be agreed with the planning authority before commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 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.</p>

	<b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.
7.	All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on the adjoining laneway during the course of the works. <b>Reason:</b> To protect the amenities of the area.
8.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme. <b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Brendan Coyne  
Planning Inspector

20<sup>th</sup> February 2020