



An
Bord
Pleanála

Inspector's Report

ABP-306305-20

Development	Retention of demolition of boiler house and domestic extension and retention of construction of new extension, alterations to dwelling, variation of ground levels and associated site works.
Location	Lower Road, Castleredmond, Ballinacurra, Midleton, Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/6506
Applicant(s)	Eoghan Healy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v. Refusal
Appellant(s)	Nuala O'Brien
Observer(s)	None
Date of Site Inspection	2nd March 2020
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The subject site is located on the Lower Road, Ballinacurra, approximately two kilometres south of Midleton and approximately twenty one kilometres east of Cork City centre. The appeal site comprises a single storey dwelling within a staggered row of single storey dwellings along the Lower Road.
- 1.2. The subject site has a stated area of 885 square metres (sq. m.) and currently accommodates a single-storey dwelling. Due to the level differences within the area, the rear gardens are elevated by approximately two metres above the finished floor level of the dwellings and as a result there are retaining walls and embankments within the rear garden areas of these properties.
- 1.3. There are other similar type single storey dwellings located further east and north-west of the appeal site, undeveloped lands to the north and the adjoining public road to the south.
- 1.4. Access to the site is from the Lower Road, which is within the 50 kilometre per hour speed control zone.

2.0 Proposed Development

- 2.1. The applicant is seeking retention permission for the demolition of a boiler house and single storey domestic extension (47 sq. m.) and to retain an existing ground floor rear extension (62 sq. m.).
- 2.2. The replacement single storey extension comprises two bedrooms, a bathroom and kitchen/dining area with a flat roof. Fenestration detail and external finishes are consistent with those of the existing dwelling. The extension has been constructed on the northern side within the rear garden space and is located approximately one metre from the side (north-western) boundary at its nearest point from the party boundary and approximately three metres from the nearest part of the single storey dwelling to the north-west.

3.0 Planning Authority Decision

3.1. Decision

A decision to grant retention planning permission was issued by Cork County Council subject to two standard conditions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The Planning Officer's report (dated the 9th December 2019) noted that the development was acceptable in principle given that the overall increase in floor area is modest (approximately 15 sq m.). Although the new extension is located approximately two metres closer to the neighbouring dwelling to the north-west than the previous extension, these neighbours did not make a submission on this planning application. He recommended that retention permission be granted subject to two standard conditions.

3.2.2. *Other Technical Reports*

- Area Engineers Report: No objection.

3.2.3. Prescribed Bodies

None

3.3. Third Party Observations

A submission was received from a neighbour, whose property is located to the east of the appeal site. The concerns raised in the submission are similar to those raised in the third-party appeal observation which will be addressed later in this report.

4.0 Planning History

Subject Site

Planning Authority reference number EF 17/234-In 2017 enforcement action in respect of unauthorised works on site was commenced and is on-going. These works are the subject of the current appeal.

Planning Authority reference number D323-19. A third party submitted a Section 5 declaration in respect of unauthorised works on the appeal site in 2019. The works referred to were deemed to have constituted development and did not constitute exempted development.

5.0 Policy Context

5.1. East Cork Municipal District Local Area Plan 2017

The subject site is located in an area zoned as: 'Existing Built Up Area' within the Midleton Environs Local Area Plan.

5.2. Cork County Development Plan, 2014

5.2.1. Alterations to Existing Dwellings

The design and layout of extensions to houses are required to have regard to the amenities of adjoining properties, particularly as regards sunlight, daylight and privacy. The character and form of the existing building should be respected and external finishes and window types should match the existing.

5.2.2. Section 16.72 of the Plan sets out the requirements in relation to extensions and alterations to dwellings. Extensions should:

- Follow the pattern of the existing building as much as possible;
- Be constructed with similar finishes and with similar windows to the existing building so that they will integrate with it;
- Care should be taken to ensure that the extension does not overshadow windows, yards or gardens or have windows in flank walls which would reduce the privacy of adjoining properties.

5.3. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received. The issues raised are summarised below:

- Adequate sightlines at the widened entrance point are not achievable in accordance with the Design Manual for Urban Roads and Bridges (DMURS) 2013.
- Surface water from the extension is discharging to the foul sewer network.
- An unacceptable loss and privacy and amenity to the adjoining dwelling to the north
- Excavation works were carried out which resulted in the undermining of the party boundary wall with the property to the east. This resulted in civil proceedings between the applicant and the appellant and as a result a Court order was issued requiring the applicant to carry out reinstatement and remedial works to the satisfaction of the appellants engineer.
- The extension and location of oil tank would not comply with current fire safety regulations.

6.2. Applicant Response

The first party response to the appeal submission is summarised below: -

- A letter of support has been provided from the residents of the adjoining dwelling to the north-west.
- A vehicular entrance has been in place since before the applicants purchased the property, an image from Google streetview has been included and written confirmation from the estate agents that a vehicular entrance existed on site at the time of completing the purchase in June 2016.
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6.3. **Planning Authority Response.**

The Planning Authority made no submission to the appeal.

7.0 **Assessment**

7.1. As indicated the appeal refers to the layout and design and impact upon residential amenity, access, surface water management and ground works. 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
- Access
- Surface water management
- Ground works and boundary treatment
- Appropriate Assessment

7.2. ***Residential Amenities***

7.2.1. The flat roofed rear extension is generally rectangular in shape with a gross floor area of approximately 62 sq m. This extension was constructed in place of a previous single storey extension that had been demolished and comprised an area of 47 sq m.

7.2.2. Concerns were raised within the appeal that due to the scale of the extension in close proximity to the residential property to the north-west, that the residential amenity and privacy of that property would be unduly compromised. It is noted that the appeal submission was not made from the residents of the property to the north-west but from the residents of the property to the east, which is approximately nine metres removed from the extension at its nearest point. I am satisfied that given the single storey nature of the extension, in addition to the existence of the two-metre boundary fencing address any undue impact on the residential amenities of the neighbouring property to the north-west. I note that a letter was submitted from the property owners to the north-west outlining no objections to the proposed extension works.

Access

- 7.2.3. Concerns were expressed regarding safety of the vehicular access point. I note the appeal site is located within the 50 km/h speed zone and that the Area Engineer raised no objections to the development. I am satisfied that the entrance arrangement is acceptable.

Surface Water Management

- 7.2.4. Concerns were raised in the appeal regarding the outfall of surface water from the extension to the public foul sewer. I note the existence of a soakaway to the south-west of the property as per the floor plans submitted to the Planning Authority. The Area Engineer raised no objections in this regard. I am satisfied that this is a matter that can be suitably conditioned.

Ground Works and Boundary Treatment

- 7.2.5. It is noted that ground works were undertaken in order to facilitate the construction of the rear extension. The eastern party boundary wall was undermined during these works and resulted in civil proceedings between the applicant and the appellant. A Court order was issued requiring the applicant to carry out reinstatement and remedial works to the satisfaction of the appellants engineer. Section 5.13 of the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts.

Conclusion

- 7.2.6. In conclusion, it is considered that the extension does not unduly impact upon the amenities of the neighbouring dwellings. It is, therefore, recommended that planning permission be granted on this basis.

7.3. *Appropriate Assessment*

- 7.3.1. Having regard to the nature and small scale of the 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 development would have

been likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

It is recommended that retention permission be granted.

9.0 Reasons and Considerations

9.1. Having regard to the design and limited scale of the development, the existing building on site and the pattern of development within the area, it is considered that the development does not adversely impact on the residential amenities of neighbouring properties or result in the creation of a traffic hazard. The development proposals are in accordance with the current Cork County Development Plan in relation to extensions and alterations. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1 The development shall be retained in accordance with the plans and particulars lodged with the application to the Planning Authority on the 17th day of October, 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.

Reason: In the interest of clarity.

2. The applicant shall submit precise details for the disposal of surface water for the written agreement of the Planning Authority within one month of this grant of planning permission. The proposals shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

- 3 Opaque glazing shall be installed in the proposed ensuite window in the rear elevation.

Reason: In the interest of residential amenity.

- 4 The applicant shall submit and agree in writing with the Planning Authority details of the physical boundary treatment along all boundaries and a landscaping scheme for the site within one month of this grant of planning permission. This scheme shall include a timeframe for its implementation.

Reason: In the interest of visual and residential amenity.

Fergal O'Bric
Planning Inspector

13th March 2020