



An
Bord
Pleanála

Inspector's Report

ABP-307664-20

Development	To alter and extend existing dwelling house
Location	Breaffy South , Miltown Malbay , Co Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	20204
Applicant(s)	Mary Irving
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Niall & Marion Allen
Observer(s)	None
Date of Site Inspection	22/10/2020
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The site is located at Breaffy South, Miltown Malbay, Co. Clare, between the public road, the R482, and the sea; where the rear of the site extends to the shore. Breaffy South is 2.3km west of Miltown Malbay and 1.2km north of Spanish Point. The speed limit along this stretch of road is 80kph. The house on the subject site is one of a pair of semi-detached cottages within 5m of the edge of the public road. The dwellings incorporate long rear gardens in excess of 60 metres in length which back onto the rocky coastal Atlantic shoreline.
- 1.1.2. The area within the immediate vicinity of the subject site is characterised by ribbon development on both sides of the road. Many of the houses in the vicinity of the site have been constructed more recently than the cottages and comprise of larger detached dwellings - many of which are dormer bungalows. The coastal route on which the site is located forms part of the Wild Atlantic Way.

2.0 Proposed Development

- 2.1.1. On the 23rd March 2020, permission was sought for alterations to and an extension of an existing dwelling, alterations to the front boundary wall and the installation of a new proprietary waste water treatment system.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 29th June 2020, the Planning Authority issued a notification of their intention to GRANT permission subject to 7 no. conditions. Condition no. 4 regulates the permitted finishes and condition no. 7 requires the house and extension to be used as a single residential unit.

3.2. Planning Authority Reports

- 3.2.1. **Executive Scientist:** proposed development represents an improvement in wastewater treatment on the site. Condition should be attached that requires a re-design of the soil polishing filter.
- 3.2.2. **Planning Report:** Notes the planning history of the subject site, states that the principle of the extension is acceptable. States that the proposed extension addresses the concerns of the previous An Bord Pleanála refusal and therefore the

proposed development is acceptable. The proposed development does not erode the visual amenities of the area. Recommends that permission be granted.

3.3. **Prescribed Bodies**

3.3.1. None on file.

3.4. **Third Party Observations**

3.4.1. One objection to the proposed development. Issues raised as per the subject third-party appeal, discussed in section 6.0 below.

4.0 **Planning History**

4.1.1. **ABP-302234-18:** Planning permission was REFUSED for a development that comprised the extension of an existing dwelling, installation of a new proprietary waste water treatment system for the following reason:

- 1 The site of the proposed development is located between the road and the sea along a scenic touring route, which is a section of the Wild Atlantic Way, where the shoreline is visible from the public road. The proposed extension would significantly increase the scale and visibility of the existing semi-detached cottage, would not be subservient to the host dwelling, would diminish the character of this vernacular dwelling and would seriously detract from the quality of the landscape in this sensitive area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

4.1.2. **ABP-304129-19:** Section 5 referral to the Board asking: whether or not a proposed extension to the rear of a cottage is or is not development and is or is not exempted development. The cottage is located on a coastal road near Spanish Point in West Clare. Clare County Council determined that the proposed extension, while falling within the limitations of Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) it would nevertheless come within the restriction of Article 9(1)(a)(vi) as the said extension would interfere with the character of a designated coastal heritage landscape.

4.1.3. The Board concluded that

- (a) the construction of an extension at Rockwell Cottage, as per the drawings and associated documentation submitted with the referral, would constitute development;
- (b) the construction of an extension at Rockwell Cottage, as per the drawings and associated documentation submitted with the referral, would fall within the definition of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001 (as amended) and the relevant conditions and limitations as set out under Column 2;
- (c) the proposed extension would be located in an area wherein an objective of the statutory development Plan relating to landscape character applies; and
- (d) that the proposed extension would be visible in views from the public road and from other locations within the designated landscape area and it has not been demonstrated, on the basis of the documentation submitted with the referral, that the proposed extension would not interfere with the character of the landscape at this location

The Board therefore decided that the proposed extension was development and was not exempted development.

5.0 Policy Context

5.1. Clare County Development Plan 2017 -2023

- 5.1.1. The subject site is located within a 'designated heritage landscape' in the development plan. It is not located on a designated scenic route.
- 5.1.2. **Objective 13.5** of the development plan states as follows: It is an objective of the development plan to require that all proposed development in heritage landscapes, demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal from site selection through to details of siting and design. All other relevant provisions of the development plan must be complied within. All proposed developments in these areas will be required to demonstrate:
 - 1. That sites have been selected to avoid visually prominent locations.
 - 2. That site layouts avail of existing topography and vegetation to minimise visibility of scenic routes, walking trails, public amenities and roads.

3. That design for buildings and structures minimise the height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development.

a. The Clare County Development Plan 2017-2023 is the operative plan.

Relevant provisions include:

5.1.3. Regarding vernacular heritage, **CDP15.4** states that “It is an objective of the Development Plan:

- A To seek the retention, appreciation and appropriate revitalisation of the vernacular heritage of County Clare, in both towns and rural areas, by deterring the replacement of good quality vernacular buildings with modern structures and by protecting (through the use of ACAs and the RPS and in the normal course of Development Management) vernacular buildings where they contribute to the character of an area or town and/or where they are rare examples of a structure type;
- B To support proposals to refurbish vernacular structures that are in a run-down or derelict condition, provided that:
 - Appropriate traditional building materials and methods are used to carry out repairs to the historic fabric;
 - Proposals for extensions to vernacular structures are reflective and proportionate to the existing building and do not erode the setting and design qualities of the original structure which make it attractive; While direction for the design should be taken from the historic building stock of the area, it can be expressed in contemporary architectural language.

5.1.4. **CDP13.6** referring to Seascape Character Areas states that it is an objective of the development plan to:

- A To require all proposed developments within Seascape Character Areas to demonstrate that every effort has been made to reduce the visual impact of the development. This must be demonstrated by assessing the proposal in relation to:
 - Views from land to sea;
 - Views from sea to land;
 - Views along the coastline.
- B To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.

5.2. Natural Heritage Designations

- 5.2.1. The subject site is 200m from the Carrowmore Point to Spanish Point and Islands SAC (001021) and 300m from the Mid-Clare Coast SPA (004182)

5.3. EIA Screening

- 5.3.1. Having regard to nature and scale of the development 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

- 6.1.1. A third party appeal against the decision of the Planning Authority to grant permission has been submitted by the owners of the property adjoining the subject dwelling. The grounds of the appeal can be summarised as follows:
- The Board previously refused permission for a larger extension to the subject dwelling (ABP-302234-18). The reasons for refusal are relevant to the subject proposal. These related to the scenic touring route which is part of the Wild Atlantic Way where the shoreline is visible from the road, that any extension should not increase the scale and visibility of the dwelling and that any extension should be subservient to the dwelling.
 - The An Bord Pleanála inspector (ABP-304129-19) concluded that an extension of 39.7sq.m. would interfere with a designated heritage landscape and therefore was not exempted development. A full visual impact assessment with photomontages is necessary.
 - The subject site is constrained, being narrower than others in the area (16.5m wide), having an established building line to the front and having vehicular access to the rear, constraining the width available for development. This means there are limited options to extend without detracting from the original style, mass, orientation and landscape.

- The site is within an area of special control, namely a Heritage Landscape. CDP13.5 requires visual impact be demonstrated. No photos were submitted with the application.
- The subject site should be considered a scenic route. The proposed extension will be visible on all sides. There are few examples of this particular vernacular style in the immediate area. The basic form of the building is still evident. In the previous application the Clare County Architectural Officer noted that the building is a fine example of vernacular architecture.
- While the scale of the current proposal is an improvement on the previously refused proposal, the proposed pitched roof is very large in relation to the width of the original long house and fundamentally changes the axis and character of the structure. The proposed development does not reinforce the original design, the rear building line should be maintained.

6.2. Applicant Response

6.2.1. The applicant has responded to the third-party appeal as follows:

- Applicant purchased the house five years ago. The applicant has strong connection to the area.
- The cottage is uninhabitable and is an ‘eyesore’. Many neighbours welcome the proposed improvement which will have a positive visual impact.
- The renewal of the subject cottage complies with the development plan policy (13.3.2.3) of ensuring communities continue to be renewed while ensuring heritage is sustained.
- The visual impact of the cottage is currently negative. The proposed development would comply with CDP13.5 as it would improve the visual impact.
- The proposed removal of the sunroom and the modest new extension will blend in much better.
- Condition no. 6 of the Planning Authority’s decision will prohibit the application from erecting a shed, a kennel or children camping in the garden. It is submitted that this is not what the Council intended.

6.2.2. The response is accompanied by a letter from the applicants legal agent, stating:

- The 'Wild Atlantic Way' has no legal or planning meaning and is not relevant to the determination of the appeal.
- The development plan recognises that guidelines are not prescriptive and development cannot be refused on the basis of size only.
- The proposed renewal of the cottage is in keeping with the development plan and Project 2040. The Planning Authority has correctly followed national and local policy.
- Courts have recognised that Planning Authorities have expertise in planning matters. There is no requirement to submit a visual impact statement. This was not requested by the Planning Authority or the Board in previous applications. The scale of the proposed development is such that requiring a VIS would be disproportionate and unreasonable.
- The appellants drawings are not to scale. The proposed extension will not be visible. The protection of the seaward view has been rejected by the Board in the previous decision (ABP-302234-18).
- Condition no. 6 of the Planning Authority's decision is not proportionate and is contrary to section 32(2)(b) of the Planning and Development Act 2000, as amended. Article 9(1)(a)(vi) fully protect the site from development which would interfere with the character of the landscape.

6.3. **Planning Authority Response**

- 6.3.1. Notes the grounds of the appeal and requests the Board to uphold their decision.

7.0 **Assessment**

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Visual Impact

- Condition no. 6 of the Planning Authority decision

7.2. Principle of development

- 7.2.1. The proposed development namely the extension of and refurbishment of a derelict cottage is acceptable in principle, subject to other planning considerations.

7.3. Visual Impact

- 7.3.1. The subject and the adjoining dwelling are interesting examples of the traditional long house, vernacular to many country areas. The loss of such heritage buildings is always regrettable. The proposed development is not a complete loss however. It will retain the dominant characteristic of low profile, wide frontage with a central porch, slate roof and barge gable walls. I consider the proposed development of the dwelling to be very successful and in sympathy with the architectural heritage of the property. The context of the immediate area has changed significantly and with the exception of the subject and the adjoining property, the architectural vernacular of the area has largely been lost. The benefit of bringing a derelict property back into habitable use far outweighs the minor loss of original fabric, context and setting, much of which has already been lost.
- 7.3.2. The rear extension is below the ridge height of the dwelling and will not be seen from the front elevation. It is clearly subservient to the main dwelling whilst allowing the necessary accommodation for family life. The rear extension will be visible from and by the immediate neighbours, however this impact will not be unduly onerous. I note that a number of dwellings in the area have extended to the rear to take advantage of the expansive coastal views. I am satisfied that the development has addressed the previous concerns of the Board.
- 7.3.3. I am satisfied that the small scale of the proposed development is such that a visual impact assessment of the proposed development is not warranted. The existing dwelling has been the subject of many assessments by both the Planning Authority and the Board and sensitivity of the landscape is well understood.

7.4. Condition no. 6

- 7.4.1. The applicant has requested that should the Board grant permission that condition no. 6 of the Planning Authority's decision not be attached. The applicant states that

such a condition is too onerous and would unintentionally restrict her right to erect a shed, a kennel or prohibit her children from camping in the garden.

7.4.2. Condition no. 6 of the Planning Authority's decision is a standard condition removing the right to exempted development, without a prior grant of permission. Given the visual sensitivity of the subject site and the Heritage Landscape in which it stands, it is considered reasonable to require any future development to require planning permission.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

8.1.1. It is recommended that permission be granted subject to conditions, for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

9.1.1. Having regard to the rural coastal landscape of the subject site, the planning history of the site, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1.	The development shall be 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. Reason: In the interest of clarity
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2.	<p>The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity.</p>
3.	<p>The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof. The external walls shall be finished in neutral colours such as grey or off-white</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>(a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>Reason: In the interest of public health.</p>
5.	<p>(a) The proposed waste water treatment system and polishing filter shall be located, installed and maintained in accordance with the details received by the Planning Authority on the 23rd March 2020 and the Code of Practice Waste Water Treatment and Disposal Systems Serving Single Houses (EPA, 2009) or any amended version of this document. No system other than the type proposed in submission and approved by this permission shall be installed unless otherwise agreed in writing with the Planning Authority.</p> <p>(b) The invert level of the percolation piping shall be placed at 0.2m below existing ground level.</p> <p>(c) Certification by the system manufacturer that it has been properly installed and tested shall be submitted to the Planning Authority within 4 weeks of the date of installation.</p> <p>(d) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of 3 years from the date of first occupancy of the house. Signed and dated copies of the contract shall be submitted to and agreed with the Planning Authority within 4 weeks of the date of installation.</p> <p>(e) surface water soakways shall be located such that drainage from this area shall be diverted away from the location of the wastewater treatment system.</p>

	Reason: In the interest of public health.
6.	All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Reason: In the interests of visual and residential amenity.
7.	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. Reason: In order to safeguard the residential amenities of property in the vicinity.
8.	Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall be erected on the site/within the rear garden area, without a prior grant of planning permission. Reason: In the interest of the amenities of the area.

Gillian Kane
Senior Planning Inspector

16 November 2020