



An
Bord
Pleanála

Inspector's Report

ABP-308441-20

Development	First floor extension, velux windows and connection to services.
Location	No 3 Kilmantain Park, Bray, Co. Wicklow, A96 R793.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	20484
Applicant(s)	Linda and Ben Dutton
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Linda and Ben Dutton
Observer(s)	None
Date of Site Inspection	8 th January 2021
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The appeal site is located at No. 3 Kilmantain Park, Bray, Co. Wicklow. The site is located to the middle of a terrace of 6 No. two storey dwellings.
- 1.2. Development on site consists of a two storey terraced dwelling. The rear of the dwelling has previously been extended by a single storey kitchen extension. The rear garden is restricted in size and is completely paved over at present with a number of different levels. A three storey apartment block is located close to the rear boundary of the site.
- 1.3. The site context is characteristic of a mature suburban area and has a wide range of housing.
- 1.4. There are a substantial number of photographs of the rear of the site on the file both within the planner's report and in response to the Further Information Request which may be useful to the Board.

2.0 Proposed Development

- 2.1. Permission sought for a first floor extension which provides for a bathroom and bedroom. The proposed extension has a larger footprint than the ground floor and overhangs the ground floor. The floor area of the proposed extension is c. 22.8 square metres.
- 2.2. The response to the Further Information request dated the 28th day of August 2020 outlines the need for the development by the family and their circumstances. It is stated that it is planned to re-do the garden by removing the tiers that are currently in place to provide a quality amenity space.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for 2 No. reasons as follows:

1. It is considered that the proposed development would seriously injure the amenities and depreciate the value of properties in the vicinity by virtue of

overbearing and overshadowing impact. Furthermore, the proposed development results in the overdevelopment and disorderly development of a constrained site and would adversely impact on the outdoor amenity space of the existing house and would seriously injure the existing residential amenity of the property. The proposed development would therefore be contrary to the proper planning and sustainable development.

2. Insufficient information has been submitted to show that the extension (which incorporates an overhang of the ground floor amenity space) is structurally sound and capable of being constructed without adversely impacting on the integrity of the existing house and outdoor amenity area. In the absence of more detailed information being provided and a full and detailed assessment of the proposed development, the proposed development would be injurious to the amenities of the property and area. Therefore the proposed development would be contrary to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report dated the 11th day of July 2020 considered that the proposal for an extension is acceptable in principle. Concern was expressed in relation to the depth of the extension and extent to which it protrudes beyond the ground floor extension. It was considered that in the interests of protecting the amenity of adjoining properties and protecting the amenity of the rear amenity space for the dwelling, the extension should be pulled back in line with the ground floor extension.
- The second planner's report dated the 15th day of September 2020 considered that the proposed extension would have an adverse impact on the amenity of adjoining properties by reason of overbearing and overshadowing impacts and would result in disorderly development of a constrained site. It also considered that the development would have an adverse impact on the amenity of the limited outdoor space.

3.2.2. Other Technical Reports

3.2.3. No other technical reports.

3.3. **Prescribed Bodies**

3.3.1. No reports.

3.4. **Third Party Observations**

3.4.1. None submitted.

4.0 **Planning History**

4.1. No relevant planning history.

5.0 **Policy Context**

5.1. **Development Plan**

Bray Municipal District Plan 2018

The appeal site is zoned 'RE – Existing Residential' with a stated objective 'to protect, provide and improve residential amenities of existing residential areas.'

Wicklow County Council Development Plan 2016-2022

Appendix 1

The construction of extensions to houses will generally be encouraged.

The following basic principles shall be applied:

- The extension shall be sensitive to the existing dwelling and should not adversely distort the scale or mass of the structure.
- The extension shall not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed.
- In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities.

- New extensions should not overshadow adjacent dwellings to the degree that a significant decrease in daylight or sunlight entering into the house comes about. In this regard, extensions directly abutting boundaries should be avoided.
- Whilst the form, size and appearance of an extension should complement the area, unless the area has an established unique or valuable character worthy of preservation, a flexible approach will be taken to the assessment of alternative design concepts.

5.2. **Natural Heritage Designations**

5.2.1. None relevant.

5.3. **EIA Screening**

5.3.1. Having regard to the nature of the proposed development comprising of an extension to an existing dwelling in an established urban area, 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**

The appeal response can be summarised as follows:

- The applicant's are not losing any ground space by virtue of the overhang and have no issue with the garden upgrade being a condition of planning.
- The proposed extension will increase the property value.

- The Planning Authority have alluded that they would grant permission if the extension was pulled back in line with the ground floor. However, this would not impact on either light or overbearing impacts.
- It is not considered that there is any overlooking.
- It is the responsibility of Building Control to assess the technical aspects of the development and not the responsibility of the planner.

6.2. **Planning Authority Response**

- None submitted.

6.3. **Observations**

- None.

7.0 **Assessment**

7.1. Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. In my opinion the main issues to be addressed are as follows:

- Impact on Residential and Visual Amenities
- Construction Impact
- Appropriate Assessment

7.2. **Impact on Residential and Visual Amenities**

7.2.1. The Planning Authority contends that the proposed development would have an adverse impact on the amenity of adjoining properties by reason of overbearing and overshadowing impacts and would result in disorderly and overdevelopment of a constrained site.

7.2.2. I share the concerns of the Planning Authority in this regard. The existing site is somewhat constrained and the proposed development would have an overshadowing and overbearing impact on adjacent properties. I note that the

response to the Further Information states that the three storey apartments to the rear already decreases the amount of sun into Nos. 2, 3 and 4 Kilmantain Park.

7.2.3. Furthermore, I note that overhanging element of the proposed extension is not sensitive to the existing dwelling and would detract from the private open space provision on the site. I note that the private open space provision would be reduced to c. 25 square metres which in my view would lead to a poor quality of amenity for the existing residents. I note that the Development Plan requirement for new three bedroom dwellings is c. 60 to 75 square metres. The existing rear garden is c. 30 square metres. The appeal makes the case that they are not losing any space because the space under the overhang could still be used as a drying area or a BBQ area. Whilst I accept that the space could still be used to some extent, the garden area is already very limited in size with some overshadowing as detailed in the Further Information Response and well below current standards. As such, any reduction in size would detract further from the amenity of the current occupants. I note that the Further Information Response states that the applicant proposes to upgrade the garden by removing the existing tiers and shed. The appeal states that they have no objection to a garden upgrade being a condition of a grant of permission. I do not consider that a garden upgrade would address the fundamental problem which is that the site size and context is too restricted for a development of the type proposed. The proposed extension in my view would further diminish the quality of the substandard level of private open space remaining and the proposed development, if permitted, would result in the overdevelopment of the subject site.

7.2.4. The proposal is sited directly on the site boundaries and I note that Appendix 1 of the Wicklow County Council Development Plan states that extensions directly abutting property boundaries should be avoided. Having regard to the orientation of the site, the design, location and size of the first floor extension, I consider that the proposed development will have a significant negative visual and overbearing impact on both properties either side of the development.

7.2.5. **Construction Impact**

7.2.6. I note that the second reason for refusal by the Planning Authority considers that insufficient information has been submitted to show that the extension is capable of

being constructed without adversely impacting on the integrity of the existing house and outdoor amenity area.

- 7.2.7. The response to the appeal states that ‘it is now the responsibility of Building Control to assess the technical aspects of all developments ... and it is not the responsibility of the Planner to pass judgement on this aspect of Building Control.’
- 7.2.8. I concur with the appeal response and consider that the second reason for refusal is not a matter for the Board in this instance.

7.3. **Appropriate Assessment**

- 8.0 5.3.1. Having regard to the nature of the proposed development comprising of an extension to an existing dwelling in an established urban area, 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.**Recommendation**

- 8.1. I recommend a refusal for the following reason:

9.0 **Reasons and Considerations**

1. The proposed development extension would not comply with the provisions of Appendix 1 of the Wicklow County Council Development Plan 2016-2022 which requires that extensions should be sensitive to the existing dwelling and should not overshadow adjacent dwellings. Furthermore, it is considered that the overhanging element of the first floor extension would detract from the private open space of the existing dwelling and would provide for a poor quality of amenity for the existing

occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Emer Doyle
Planning Inspector

14th January 2021