



An  
Bord  
Pleanála

## Inspector's Report ABP-309292-21

<b>Development</b>	Dormer bedroom extension to first floor over part of existing ground floor flat roof kitchen to the rear and all associated site works
<b>Location</b>	No. 13 O'Mahony Avenue, Carrick-on-Suir, Co. Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	20/626
<b>Applicant(s)</b>	Fiona Russell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v Grant of Permission
<b>Appellant(s)</b>	Patrick Power
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	08.06.2021
<b>Inspector</b>	Anthony Kelly

## **1.0 Site Location and Description**

- 1.1. The site is located on the east side of O'Mahony Avenue/N24 west of the town centre.
- 1.2. The house on site is a two-storey end-of-terrace house, externally finished in render, with a single storey flat roof area to the rear and an attached store. The house is similar to other houses on the streetscape. The area to the rear of the house has brick paving and there is also a grassed garden area.
- 1.3. The site has an area of 0.0274 hectares.

## **2.0 Proposed Development**

- 2.1. Permission is sought for a first floor extension to the rear over the existing ground floor area.
- 2.2. The house has a floor area of 88sqm. The floor area of the proposed extension is 11sqm. The ridge height of the proposed extension is below the ridge height of the house.
- 2.3. Further information was submitted in relation to, inter alia, a 'Shadow Study Report' prepared by the applicant's agent dated September 2020, revised floor plan and elevation drawings accurately reflecting the situation on site and a justification for not investigating design revisions for a ground floor extension. The application was re-advertised as significant further information because the further information response 'contains significant additional data, including information in relation to effects on the environment'.
- 2.4. Clarification of further information was submitted in relation to revised shadowing detail in a 'Daylight Analysis and Overshadowing' document prepared by Heffernan 3D dated 28.11.2020, clarity in relation to heights and separation distances and further justification for the first floor extension.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission was granted subject to four conditions including surface water disposal, external finishes, and construction practices.

#### **3.2. Planning Authority Reports**

- 3.2.1. Three Planning Reports form the basis of the planning authority decision. The third report considered that the development complies with the policies and objectives of the Carrick-on-Suir Town Development Plan 2013, as varied, and that the development does not have an adverse impact upon the character of the area or the amenities of adjoining properties.

##### **3.2.2. Other Technical Reports**

None.

#### **3.3. Prescribed Bodies**

None.

#### **3.4. Third Party Observations**

- 3.4.1. One observation was received by the planning authority from Patrick Power, 12 O'Mahony Avenue, (adjacent to the south). The issues raised are largely covered by the grounds of appeal with the exception of the following:

- It is the centre of the dividing mass concrete boundary wall that is the property boundary, not the edge of the overhanging roof.
- The drawings submitted do not accurately reflect the situation on site.
- No side/south west elevation drawing submitted.
- Access to the observer's property will not be permitted.
- A number of mark-ups of the application drawings and photographs were submitted.

3.4.2. An observation was made by Patrick Power on the further information response. The issues raised are largely covered by the grounds of appeal and original observation with the exception of the following:

- Submitted drawings are incorrect. Additional mark-ups of the application drawings were submitted.

3.4.3. An observation was also made by Patrick Power on the clarification of further information response. The issues raised are largely covered by the grounds of appeal and previous observations with the exception of the following:

- By putting the applicant's rationale for the development in the public domain, the appellant's good name is impugned and cast in a poor light.
- There are a number of solutions open to the applicant. It appears no change to the applicant's property or lifestyle will be tolerated but the appellant is expected to agree to a development deleterious to No. 12.
- Additional mark-ups of the application drawings were submitted as well as two sketch drawings prepared by the appellant.

## **4.0 Planning History**

4.1. There has been no previous planning application on site.

4.2. The planning application form states a Section 5 application was made under P.A. Reg. Ref. S5/20/37. The first planning authority Planning Report states the construction of a first floor dormer extension was not considered exempt development.

## **5.0 Policy Context**

### **5.1. South Tipperary County Development Plan 2009-2015 (as varied and extended)**

5.1.1. This Plan is in place until such time as a single County Development Plan is prepared for Tipperary subsequent to the preparation of the Regional Spatial and Economic Strategy (RSES). Section 1.6 (Relationship with Town Development Plans) states that

Town Development Plans, including the Carrick-on-Suir Town Development Plan 2013, will remain the statutory plans for these areas until a review and preparation of local area plans for these towns take place.

## **5.2. Carrick-on-Suir Town Development Plan 2013**

5.2.1. The site is in an area zoned 'Existing Residential'. The land use zoning objective is 'To preserve and enhance Existing Residential amenity, ensuring that any new development does not result in excessive overlooking of existing residential properties, does not reduce general safety for existing residents and does not reduce the usability and security of existing public and private open space'. Residential development is permitted in principle under the Land Zoning Matrix (Table 11).

5.2.2. Section 10.19 (Domestic Extensions) is relevant to the application and is set out in full.

'The design and layout of extensions to houses should 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.

The Council will generally seek to implement the following guidelines in respect of residential extensions:

- (a) the extension should generally be subordinate to the main building;
- (b) the form and design should integrate with the main building, following window proportions, detailing and finishes, including texture, materials and colour;
- (c) a pitched roof will be required except on some small single storey extensions;
- (d) designs should have regard for the amenities of the neighbouring residents, in terms of light and privacy; and
- (e) flush roof lights are preferable to dormer windows'.

## **5.3. Natural Heritage Designations**

5.3.1. The closest area of natural heritage designation is the Natura 2000 site, Lower River Suir SAC (Site Code 002137), approx. 230 metres to the south.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal are submitted by Patrick Power, 12 O'Mahony Avenue (the adjacent property to the south). The main points made can be summarised as follows:

- Points made to Tipperary County Council appear to have been totally discounted. No meaningful conditions were imposed. At the least the appellant expected the roof type to be changed to a lean-to with rooflights. The appellant has lived in the property since 1964. Reference is made to submissions made to Tipperary County Council during the planning application process.
- View of the sky and natural light will be reduced very significantly from the ground floor sitting room window and result in visibility of a wall and roof. The rear of the sitting room and area outside becomes cave-like.
- Summer sunlight will be cut off from the master bedroom window and will result in visibility of a wall and roof less than two metres from the window.
- The submitted shadow report which purports to show the house is not overshadowed from 10am onwards does not reflect how the appellant and his wife live in the property. The development will prevent summer sunshine getting into the master bedroom and sitting room from 5.30am-10am.
- Devaluation of the appellant's property.
- The appellant's deck is not currently visible from No.13, but the development will make this and other areas to the rear of the house visible that were not previously visible. There is an impact on privacy.
- The appellant works from home. Noise and disturbance from the extension would be disruptive.
- O'Mahony Avenue/N24 is extremely busy. Construction parking outside the site would make entry and exit from the appellant's property extremely hazardous due to reduced sightlines.
- Construction will be ongoing 2 metres from the master bedroom.

## 6.2. Applicant's Response

The main points made can be summarised as follows:

- The appellant is not entitled to a view over the applicant's property. The findings of the sunlight and shadow cast assessments demonstrate there will be no loss of daylight or sunlight arising. The house is painted white and it is a condition that the extension finish matches the existing house. Light will therefore be deflected to the appellant's property. The drawings referred to by the appellant were used without the architect's knowledge or consent. The markups were considered by the planning authority which determined the impact was not unacceptable.
- The sense of enclosure from the first floor window will be less than currently experienced at ground floor level as the extension is set back 1.22 metres from the common boundary. The section 5 application was deemed not exempt. While technically correct, had the rear wall been a few centimetres lower the extension could have been built without permission.
- There will be no loss of natural light/daylight into either sitting room or master bedroom. Early morning sunlight would not penetrate the sitting room due to the applicant's existing ground floor extension. Maintaining early morning sunshine into a bedroom is not an entitlement nor reason to refuse permission.
- No evidence was submitted to support the claim of devaluation of the property. It cannot be devalued by the entitlement of a neighbour to carry out an exempted development. By lowering the rear wall a matter of inches the extension could have been constructed as exempt development.
- The deck referred to is tucked behind a garden shed. It will be no more overlooked than it would be from the existing windows. The houses are in a terrace in a confined urban area where overlooking opportunities exist. In reality, overlooking from bedrooms is not common and not something that can be generally regulated under the planning codes unless it is direct overlooking. The proposed window directly overlooks the application site. The appellant could move the bench referred to.

- In terms of noise and disturbance from the extension when working from home it is unclear if the appellant is referring to during construction or when complete. The condition relating to construction practices will safeguard amenity during works. If the appellant expects noise levels lower than those typically generated by a family, there is the option not to work from home.
- There was no objection from the planning authority on traffic safety grounds. Contractors cannot park on the public road and cause a traffic hazard without causing a traffic offence, enforced by An Garda Síochána. There is no reason to suggest a similar arrangement to when previous works were carried out on the applicant's property, where workers assisted the appellant as referenced in the grounds of appeal, will not exist.
- The development would comprise a modest extension which would have no unacceptable impact on neighbouring property.
- The bedroom in the proposed extension would be occupied by the applicant's young daughter who requires a room beside her mother for medical reasons as set out in a cover note attached to the response.
- Detail of S5/20/37 is also included with the applicant's response.

### **6.3. Planning Authority Response**

The main points made can be summarised as follows:

- The design and scale of the development is considered reasonable.
- The Daylight Analysis and Overshadowing Study received on 03.12.2020 illustrates that the proposed development will not give rise to significant overshadowing impacts or loss of light.
- The development does not present significant overlooking impacts.
- Construction phase disturbance can be managed through a condition regulating construction hours. Impacts will be temporary.

### **6.4. Observations**

None.

## **6.5. Further Responses**

None sought.

## **7.0 Assessment**

The main issues are those raised in the grounds of appeal and the Planning Reports and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Design
- Impact on Adjacent Residential Amenity
- Appropriate Assessment

### **7.1. Zoning**

- 7.1.1. The proposed development is located in an area zoned for residential use. Residential development is permitted in principle under this zoning in the Carrick-on-Suir Town Development Plan 2013. The principle of development is therefore acceptable, subject to the detailed considerations below.

### **7.2. Design**

- 7.2.1. The appellant has concerns about the scale of the proposed first floor extension on the amenity of No. 12 and would have expected the planning authority to have changed the roof to a lean-to type with rooflights.
- 7.2.2. The proposed extension is a straightforward extension at first floor level above part of an existing ground floor area. The planning application form states the bedroom is 11sqm, the proposed first floor plan states it is 10.1sqm. It projects out approx. 3.5 metres, slightly longer at the roof overhang, with a ridge height of 6.2 metres which is lower than the 7.245 metres height of the house. It is set back 1.02 metres from the

indicated property boundary and 1.22 metres from the edge of the flat roof which overhangs into the curtilage of No. 12. The planning authority's Condition 3 required the external finish of the proposed extension to match the main house. This is a reasonable and standard condition. The proposed extension is modest in the context of the floor area of the existing 88sqm house and has an uncomplicated design.

- 7.2.3. The appellant notes that possible alternative design solutions were not submitted despite forming part of the further information and clarification of further information requests. A ground floor design solution was proffered in the third observation submitted to the planning authority. The grounds of appeal state a change to the roof type would have been expected but there is no indication how such a condition would have altered the application as applied for. Notwithstanding, while there may be alternative design solutions possible, a decision is required to be made on the development in front of the Board i.e. a first floor rear extension as granted permission by the planning authority.
- 7.2.4. I note that no side/south west elevation drawing was submitted despite its absence being noted in the appellant's observations. I do not consider that its absence precludes a decision being made as the impact of the development can be understood given the other documentation on file. However, I consider a relevant elevation drawing should be submitted as a compliance condition should permission be granted.
- 7.2.5. In conclusion, I consider that the proposed extension is modest in the context of the existing house, it is set back from the property boundary and its design would not render it visually obtrusive or incongruous.

### **7.3. Impact on Adjacent Residential Amenity**

- 7.3.1. Impact on adjacent residential amenity is the basis of the grounds of appeal.
- 7.3.2. The planning authority sought further information and clarification of further information on the shadowing issue. A 'Daylight Analysis and Overshadowing' document prepared by Heffernan 3D was submitted as part of the clarification of further information response. This looked at the impact of the proposed extension at 10am, noon and 2pm on March 20<sup>th</sup> and concluded that the development will not have an overly negative effect on neighbouring facades. The appellant's issue is with shadowing earlier than 10am from May to September. This impact has not been specifically

ascertained. The proposed extension is modest in the context of the existing house, it is set back from the boundary, and it is located to the north of No. 12. While some shadowing may occur, I do not consider it reasonable to refuse permission in this case on that basis. I also note that there is no entitlement to a view.

- 7.3.3. In terms of overbearing impact I again note that the proposed extension is relatively modest in scale and it is set back from the property boundary. The site is located within the built-up urban area of the town and it is not reasonable to refuse permission on overbearing impact for what I consider to be a relatively limited first floor rear extension. It is inevitable that there would be a change to the receiving environment from any type of building activity such as rear extensions of existing houses but, again, I do not consider it would be unduly overbearing.
- 7.3.4. In terms of overlooking impact there are no side windows proposed. There is one rear elevation window which would directly overlook the site itself but would also have indirect views over the rear of the appellant's property as well as other property e.g. No. 15. However, the overlooking would not be substantially different from that which already exists. In any urban and residential area indirect overlooking of the type proposed is essentially inevitable and unavoidable.
- 7.3.5. The impact of the extension on the appellant's ability to work from home is unclear as noted in the applicant's response to the grounds of appeal. If it relates to the construction phase this would be temporary. I do not consider that a completed bedroom extension would have any material impact on the appellant's ability to work from home.
- 7.3.6. The planning authority had no concern with impact on traffic. While this is a busy road with significant HGV traffic, this is a standard, relatively minor construction project similar to many others that take place adjacent to busy urban roads and streets.
- 7.3.7. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.
- 7.3.8. In conclusion, while I acknowledge that the proposed development would have an impact on the existing residential amenity enjoyed by the appellant, and other local

residents, the proposed development involves a modest first floor extension, set back from the property boundary, within the built-up urban area. Any intervention in the built environment will result in a change to the local area. However, I consider that the proposed extension is acceptable in terms of its scale and design and would not have any undue adverse impact on adjoining property, either to the south or north.

#### **7.4. Appropriate Assessment**

- 7.4.1. Notwithstanding the proximity of the development site to the Lower River Suir SAC, having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a fully serviced location within a built-up urban area with no hydrological pathway 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.

#### **8.0 Recommendation**

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

#### **9.0 Reasons and Considerations**

Having regard to the provisions of the Carrick-on-Suir Town Development Plan 2013, and the nature and scale 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 or visual amenities of the area. The proposed development 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, as amended by the further plans and particulars submitted on the 11<sup>th</sup> day of September 2020, 1<sup>st</sup> day of October 2020 and 3<sup>rd</sup> day of December 2020, 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. An existing and proposed south west/side elevation drawing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of clarity.

3. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.

**Reason:** In the interest of visual amenity.

4. Site development and building works shall be carried out only between the hours of 0800 to 1800 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.

5. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

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Anthony Kelly

Planning Inspector

09.06.2021