



An
Bord
Pleanála

Inspector's Report

ABP-309659-21

Development	Construction of extension to dwelling house and associated site works.
Location	No.2 The Manor, Clondulane North, Fermoy, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	205575
Applicant(s)	Serena and Peter Burton
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Mr. & Mrs. O' Neill and Others
Observer(s)	None
Date of Site Inspection	15 th December 2021
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is No. 2 The Manor, Clondulane North, Fermoy, Co. Cork. The appeal site is situated at The Manor, a housing development close to the centre of the small village of Clondulane, which is located c. 4 km east of Fermoy.
- 1.2. The appeal site accommodates a two-storey, mid-terrace dwelling. The appeal property has a stated floor area of c. 96 sqm. An alleyway runs between No. 2 and the property to the east at No. 3 The Manor and connects with a laneway to the rear of the terrace.
- 1.3. The appeal site is part of a terrace of two storey dwellings, each orientated with the front of the dwellings facing south and rear gardens facing north. Two of the terraced units accommodate vacant retail units at ground level with apartments above. Parking bays are located to the front of the terrace. The land to the rear/north of the appeal site comprises fields. The rear of the appeal site and adjoining properties are visible when viewed from the western approach road into Clondulane.

2.0 Proposed Development

2.1 The Application as initially lodged with the Planning Authority on the 24/07/2020 comprised the following:

- Two-storey rear extension (floor area 47 sqm), projecting 5.4 metres with a height of c. 6 metres.
- The proposed extension is set-off the eastern site boundary c. 1.4 metres and c. 1.1 metres off the western site boundary. A distance of c. 4.5 metres is indicated between the proposed rear extension and the rear site boundary.

2.2 Revised Proposal submitted by way of Further Information on 29/09/2020

- The overall scale of the proposed extension was reduced and the roof profile was changed.

3.0 Planning Authority Decision

3.1 Request for Further Information and Clarification of Further Information

Prior to the decision of the Planning Authority to grant permission for the proposed development, the Planning Authority requested Further Information and Clarification of Further Information.

3.1.1 Further Information was requested as follows:

- A reduction in the massing of the proposal and a more symmetrical, simple design.
- An analysis of the extent of overshadowing on No. 1 and No. 3 The Manor.

3.1.2 Revised Proposal submitted by way of Further Information on 29/09/2020:

- The depth of the extension was reduced to 5.3 metres at ground level and 4 metres at first floor level. The width of the first-floor extension was increased from 4 metres to 4.8 metres).
- The floor area of the proposed extension decreased to 44 sqm.
- The roof profile of the proposed rear extension was changed to a hip roof.
- The distance between the proposed extension and the rear site boundary was increased to c. 6 metres.
- Documentation submitted included a shadow study.

3.1.3 Clarification of Further Information was requested as follows:

- A shadow analysis (having regard to BRE 209 'Site Layout Planning for Daylight and Sunlight, a Guide to Good Practice, Second Edition – 2011) addressing the impact of the proposal on the ground and first floor windows and sunlight serving habitable living space of the property to the east/No. 3 The Manor.

3.1.4 Clarification of Further Information submitted on 25/01/2021

- Updated shadow analysis study submitted on 25th January 2021 having specific regard to BRE 209 'Site Layout Planning for Daylight and Sunlight, a Guide to Good Practice, Second Edition – 2011.
- Drawings indicating the carrying out of shadow tests, including the 45⁰ test.

3.2 Decision

The Planning Authority issued a Notification of Decision to Grant Permission on the 15th February 2021 subject to 9 no. conditions. These conditions are standard in nature and refer to issues including the use of the extension, finishes, surface water and construction management. The structure as permitted related to the design submitted as Further Information on the 29th September 2020.

3.3 Planning Authority Reports

3.3.1 Planning Report(s)

3.3.2 The first report of the Planning Officer (dated 14th September 2020) includes the following comments;

- Noted that the design of the proposed extension is out of character with the existing dwelling and would impact the visual amenities of the area.
- Noted concerns in relation to overshadowing and overbearance of adjoining property.
- Noted concerns in relation to the remaining quantum of private amenity space to serve the dwelling (i.e. 48 sqm).

3.3.3 The second report of the Planning Officer (dated 19th October 2020) includes the following comments;

- Noted that the overall scale of the proposal has been reduced and that the design of the proposal is now considered acceptable.

- Noted that an acceptable quantum of private amenity space is now provided to serve the dwelling.
- Noted that the diagrammatic shadow study does not contain a discussion of the results of the shadow study and that concerns remain in relation to the potential for overshadowing of the property to the east, particularly in late afternoon and evening.

3.3.4 The third report of the Planning Officer (15th February 2021) includes the following comments;

- The applicant's response has demonstrated that the extension will not have a significant impact in terms of overshadowing or loss of light.
- There is no requirement for development contributions to be levied.

The report of the Planning Officer recommends a grant of permission consistent with the Notification of Decision which issued.

3.4 Other Technical Reports

3.4.1 First Area Engineer's Report (dated 9th September 2020)

- Proposal is considered to be overdevelopment. The site area is not considered to permit such a large two storey extension without compromising the design philosophies of the estate layout.
- No objections from an engineering perspective, surface water is to be contained within the site and no flood risk issues arise.

3.4.2 Second Area Engineer's Report (dated 16th October 2020)

- Proposal is considered to be overdevelopment. The site area is not considered to permit such a large two storey extension without compromising the design philosophies of the estate layout.
- The reduction in the bulk of the proposal is an acceptable compromise.

- Recommendation that permission is granted.

3.5 Prescribed Bodies

None received.

3.6 Third Party Observations

Observations were made to the Planning Authority from the residents of No. 3 and No. 4 The Manor. The following is a summary of the main issues raised in the third-party observations received by the Planning Authority;

- The proposed development would result in overshadowing and overbearance of the adjoining properties.
- The proposed development would reduce the level of evening sun available to the rear garden of No. 4 The Manor.
- The proposed development is out of character with the terrace.
- The site notice was not readily visible from the public road.

4.0 Planning History

The following planning history is referenced in the report of the Planning Officer.

Appeal Site

PA Ref. 00/3630 - permission granted for 66 no. houses, 4 no. shop units with apartments over.

Adjacent Lands

PA Ref. 06/13498 – permission granted for 26 no. houses, stormwater retention tank, infiltration area and foul water pump house and associated siteworks on a site to the north of The Manor development. No development has been undertaken on foot of this permission and the permission has expired.

5.0 Policy Context

5.1. Fermoy Municipal District Area Plan, 2017

5.1.2 The appeal site is not subject to a specific land-use zoning but is located within the 'existing built-up area' within the settlement boundary of Clondulane, which is identified as a 'Village' within the Local Area Plan.

5.2 Cork County Development Plan 2014 – 2020

5.2.1 The relevant development plan is the Cork County Development Pan 2014 – 2020.

5.2.2 The appeal site is indicated as being within a 'High Value Landscape' in the Cork County Development Pan 2014 – 2020.

5.3 Natural Heritage Designations

- Blackwater River SAC (Site Code 002170), located c. 0.6km north of appeal site.
- Blackwater Callows SPA (Site Code 004094), located c. 0.6km north of appeal site.
- Blackwater River Callows pNHA (Site Code 00073), located c. 0.6km north of appeal site.

5.4 EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) and therefore is not subject to EIA requirements.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The proposed rear extension would result in overshadowing of No.3 and 4 The Manor. Overshadowing would also affect the rear gardens of No. 3 and 4 The Manor, particularly between 1pm and 6pm in Autumn and Spring. The dwellings to the east of the appeal site rely heavily on the evening sun from the west.
- The shadow analysis submitted by the applicant contains inaccuracies and does not consider the following;
 - The impact on No. 4 The Manor.
 - The gardens of No. 3 and No. 4 The Manor.
 - The angle at which the sun encroaches on No. 3 and No. 4 The Manor.
 - The orientation of the existing row of dwellings.
 - The off-set angle of the terrace.
 - The period of 8pm in March.
- Noting the visual prominence of the appeal site when viewed from the west, the proposed rear extension would be out of character with the terrace and the wider area.
- The request of the Planning Authority to scale back the proposed extension was undertaken with minimal consideration for adjoining property.
- The site notice was not readily visible from the public road.
- The concerns raised in the observations to the Planning Authority were not adequately considered during assessment of the planning application.

6.2 Applicant Response

The applicant's response can be summarised as follows:

- As per the request of the Planning Authority, the assessment of overshadowing is based on BRE 209 'Site Layout Planning for Daylight and Sunlight, a Guide

to Good Practice', Second Edition, 2011, (hereafter referred to as BRE 209). This document is regarded as epitomising best practice and has been scrupulously applied. The appellants' submission employs no recognised industry standards or formulae and their assumptions regarding the availability of sunlight hours are factually incorrect.

- The windows at first floor level within No. 3 The Manor, referred to as W3, W4, W5 and W6, serve a bathroom, an en-suite and a circulation area, and as such do not need to be analysed for the purposes of overshadowing, as per Section 2.2.2 of BRE 209.
- The windows at first floor level within No. 3 The Manor, referred to as W1 and W2 do not require analysis for the purposes of overshadowing as per Section 2.2.4 of BRE 209. Section 2.2.4 provides that *'loss of light to existing windows need not be analysed if the distance to each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light would be small'*. The height of the proposed development, measured from a point level with the centre of windows W1 and W2 to the top of the ridge is 1.925 metres. The proposed extension is 8.365 metres from W2, therefore more than three times this distance.
- Section 2.2.5 of BRE 209, provides a methodology for undertaking the 25-degree test for assessing daylight levels. When this test is undertaken on window D1 (a ground floor patio door), the angle that the proposed extension makes at its highest point with the centre of window D1 is below 25 degrees and is therefore *'unlikely to have a substantial effect on the diffuse light enjoyed by that window'*.
- Section 2.2.14 and 2.2.15 of BRE 209 provides a methodology for undertaking the 45-degree test for assessing diffuse skylight impact in circumstances where domestic extensions adjoin the front or rear of a house and when the nearest side of the extension is perpendicular to the window. When the centre of the window being assessed lies outside of the 45-degree angle of both plan and elevation then the extension is unlikely to cause any significant reduction in the skylight received by the window. When this test is undertaken on window W7

(a ground floor window), the centre of window W7 lies outside this projected angle on both plan and elevation. The proposed extension is unlikely therefore to cause any significant reduction in the skylight received by the window W7.

- Regarding Probable Annual Sunlight Hours (PASH), in the northern hemisphere windows are only considered in this analysis when they face within 90° of due south. As the windows of No. 3 The Manor potentially affected by the proposed extension are facing in a primarily northern direction, and do not face within 90° of due south, a PASH analysis is not appropriate. Notwithstanding this, an analysis of available sunlight hours has been undertaken (see Appendix 2). The amount of potential sunlight enjoyed by adjoining properties is confined to the period when sun illuminates the rear of the properties. This analysis concludes;

Mid-March - sunlight does not reach the rear of The Manor until c. 18:00 and the sun sets at 18:38. During this period, all the potential light receivable is above the centre line of W7. The extension of No. 3 means that no evening light is available at D1.

Mid-June - the level of overshadowing does not extend past the midway point of W7. D1 is unaffected.

Mid-September - the proposed extension indicates an impact on W7 from 17:45 onwards, however it is noted that sun-set occurs at 19:48 and, assuming the sun is present, direct sunlight impact will last c. 2 hours and over less than half of the surface of W7. Additionally, when the 45° test is applied, the extension is unlikely to cause any significant reduction in diffuse skylight.

Mid-December - the proposed extension has no discernible impact on the adjacent dwelling.

- Having regard to the primary tests recommended by BRE 209, it is not necessary to proceed to calculate Vertical Sky Component (VSC) and No Skyline Calculation (NSC).
- It is concluded that daylight is unlikely to be significantly affected by the proposed extension.

- The site notice and its location were considered acceptable to the Validation Section of Cork County Council's Planning Department.

6.3 Planning Authority Response

None received.

6.4 Observations

None received.

7.0 Assessment

7.1 I consider the main issues in the assessment of this appeal are as follows:

- Impact on Residential Amenity.
- Impact on Visual Amenity.
- Other Issues.
- Appropriate Assessment.

7.2 Impact on Visual Amenity

7.2.1 The appellants raise concerns in relation to the impact of the proposed rear extension on the visual amenities of the area, including the entrance to Clondulane, and on the character of The Manor. Given the relationship of the terrace to the western approach road into Clondulane, the proposed extension will be visible from this location. However, within a built-up area it is reasonable to expect development, including extensions to the rear of dwellings and I do not consider that the proposal would be incongruous in this context. Notwithstanding that the proposed extension will be visible when viewed from the western approach to Clondulane and noting that the area is indicated in the Cork County Development Plan 2014-2020 as a High Value Landscape, having regard to its scale and design, I do not consider that the proposal would negatively impact the visual amenities of the area.

7.2.2 Regarding the impact of the proposed development on the character of The Manor, and the impact of the proposed development when viewed from the rear gardens of adjoining properties, I am of the opinion that the scale, mass and design of proposed development is acceptable in the context of existing permitted development and would not detract from the character or visual amenity of The Manor.

7.3 Impact on Residential Amenity

7.3.1 Having regard to the two-storey nature of the proposal, impacts on the residential amenity of adjoining properties may arise from overshadowing, overbearance and overlooking. I will assess each in turn.

Overshadowing

7.3.2 Having regard to the orientation of the appeal property and the path of the sun, I do not consider that No. 1 The Manor, or its amenity space, which are located west of the appeal site, would be overshadowed by the proposal. I note that the occupants of No.1 The Manor have not appealed the decision of the Planning Authority to grant permission.

7.3.3 Regarding No. 4 The Manor, noting the scale and design of the proposal, and the distance of c. 12 metres between the proposed extension and No. 4, I do not consider there to be any realistic potential for significant overshadowing to occur of No. 4 or its amenity space. Furthermore, I note that the rear building line of No. 4 is recessed and lies behind that of No. 3 The Manor. This further reduces the potential for overshadowing.

7.3.4 No. 3 The Manor is located east of the appeal site and there is therefore potential for overshadowing of this property. From the outset, I note that the scale of the proposed extension was reduced following a request for further information such that the proposed extension projects c.5.3 metres at ground level, c. 4 metres at first floor level with the roof pitch sloping away from the eastern boundary of the site. I also note that the proposed extension is set off the eastern site boundary c. 1.4 metres, with the alleyway to the east of the appeal site increasing the separation distance between the proposed extension and No. 3 The Manor to c. 3 metres.

- 7.3.5 In response to a request for Clarification of Further Information, the applicant submitted a detailed shadow analysis based on BRE 209 to the Planning Authority. This document has also been submitted in response to the third-party appeal. The shadow analysis examines the impact of the proposal on No. 3 The Manor. In accordance with BRE 209, the effect of overshadowing on windows which serve non-habitable accommodation have been discounted from the shadow analysis (referred to as windows W3, W4, W5 and W6 in the appeal submission). I concur with this approach.
- 7.3.6 A 45° test has been undertaken in accordance with BRE 209 on the ground floor window (referred to as W7 in the appeal submission). Drawing No. 8 (elevation) and Drawing No. 9 (plan) submitted to the Planning Authority as Clarification of Further information indicates the application of the 45° test on window W7, which is the lowest and closest window to the proposed extension, and therefore the window most likely to be affected in terms of overshadowing. Based on the analysis undertaken by the applicant, the effect from overshadowing from the proposed development on this window was found not to be significant as the centre of this window is outside the 45° angle on both plan and elevation.
- 7.3.7 A 25° test has been undertaken in accordance with BRE 209 on the ground floor patio window (referred to as D1 in the appeal submission). I note that the 25° test is not applicable to extensions but is rather used when an existing and proposed building are located opposite one another. The 45° test undertaken on window W7 indicated no significant overshadowing as a result of the proposed extension. As window D1 is located further from the proposed extension than W7, I do not consider that it would be significantly affected by the proposed extension in terms of overshadowing.
- 7.3.8 Regarding the two first floor windows (referred to as W1 and W2 in the appeal submission) which serve habitable accommodation, the analysis undertaken by the applicant finds no impact given the distance between these windows and the proposed extension, taking into account the formula contained in Section 2.2.4 of BRE 209. Similarly, I note that this test is not applicable to extensions. Noting that the 45° test undertaken on window W7, indicated no significant overshadowing as a result of the proposed extension, I do not consider that the proposal would result in significant overshadowing of windows W1 and W2, which are located at first floor level, furthest from the proposed extension.

- 7.3.9 Regarding sunlight, given the orientation of the terrace, which is not within 90° of due south, and based on the BRE 209, the applicant contends that there is no requirement to undertake further analysis. Notwithstanding this the applicant has however undertaken an analysis of available sunlight hours. This analysis indicates that in mid-March, it is the extension of No. 3 itself which results in no evening light being available to window D1. A degree of overshadowing on window W7 is identified in mid-September, this impact could potentially last c. 2 hours but is over less than half of the surface of W7. However, the application of the 45° test on this window indicates that the proposed extension is unlikely to cause any significant reduction in diffuse skylight.
- 7.3.10 In relation to overshadowing of the rear garden of No. 3 The Manor, I do not consider that the shadow analysis submitted by the applicant (Appendix 2 of the appeal submission) indicates any significant degree of overshadowing of the rear garden of No. 3 as a result of the proposed extension. In respect of situations where the long face of a building faces due north/or close to due north, I note Section 3.3.5 of BRE 209, which states *'a certain area of the rear gardens will be in shade permanently at the equinox (and hence all winter), with areas slightly further away from the building face only receiving sunlight for a limited time at the beginning or end of the day'*. As a guide, Section 3.3.7 states that on the 21st March, *'the centre of the garden should experience at least two hours of sunlight'*. I note based on the shadow analysis, albeit which is based on the 15th March, that the centre of the garden of No.3 The Manor would receive at least two hours of sunlight.
- 7.3.11 Regarding the effects of overshadowing on No. 3 The Manor, based on the nature of the appeal site within a built-up area, I consider that some degree of overshadowing would be expected however, as indicated by the applicant's submission, I do not consider that the degree of shadow cast by the proposed development would materially impact upon No. 3 The Manor. I consider that the 45° has been undertaken in accordance with BRE 209 and that the conclusions drawn in the applicant's response are reasonable.
- 7.3.12 The third-party appeal submission refers to deficiencies in the shadow analysis, specifically that the impact on No. 4 The Manor was not considered; that the gardens of No. 3 and 4 The Manor were not considered; that the angle at which the sun encroaches on the dwellings was not considered; that the orientation of the existing row of dwellings was not considered, that the orientation and off-set angle of the

terrace were not considered and that the period of 8pm in March was not included. As addressed under paragraph 7.3.3 of this report, noting the scale and design of the proposal and the distance of c. 12 metres to No. 4, I do not consider there to be any realistic potential for significant overshadowing to occur of No. 4 or its amenity space. In relation to alignment/orientation of the terrace, and the way in which the angle of the sun is taken account of in the shadow analysis undertaken by the applicant, I note that the shadow analysis is computer generated and I have no information before me to suggest that this was created without these factors being taken into account. I note that the period of 8pm in March is included in the analysis of available sunlight hours (see Appendix 2). Additionally, I note that the shadow analysis submitted by the applicant is only one of the considerations in determining the likely extent of overshadowing on adjoining property, with other factors including the orientation of the terrace, the scale and design of the proposed extension, and the distances to adjoining properties being also taken account of. Furthermore, the 45^o test set out in BRE 209, has also been applied to the proposal to determine the likelihood of effects on neighbouring properties and these are set out in the drawings submitted to the Planning Authority.

7.3.13 In summation, having regard to the scale and design of the proposed extension, the relationship of the proposed extension to adjoining properties, the orientation of the appeal site and the terrace which it forms part of, and to the shadow analysis submitted by the applicant, which indicates that the lowest, closest window (W7) to the proposed extension will not be significantly overshadowed, I consider that the degree of shadow cast from the proposed extension would not materially impact upon adjoining property, and that the proposal will not significantly affect the level of daylight or sunlight to neighbouring properties and as such there is no basis for the assertion that the proposal will result in a diminution of established residential amenity.

Overbearance

7.3.14 Regarding overbearance, having regard to the extent of the proposed extension, the separation distances to the eastern and western boundaries of the site, and to the height of the proposal, I do not consider that any significant overbearance will occur on adjoining properties. The issue of the height of the proposed extension is raised in the third-party appeal. I note the maximum ridge height of the proposal is c. 6.2 metres, however noting the eaves level of the proposed extension, at c. 5 metres, the distance

which the proposal is set off the eastern and western site boundaries, and the buffering effect provided by the alleyway to No. 3 The Manor, I do not consider the height of the proposal to be excessive such as to result in any negative impacts on adjoining properties. In my opinion, the visibility of the proposed extension from adjoining properties or their rear gardens would not in itself mean that the proposed development would have a significant negative impact on amenities of neighbouring properties due to overbearance or visual impact.

Overlooking

7.3.15A first-floor window serving a bedroom is indicated on the rear/north elevation of the proposed extension. I do not consider that this window would give rise to any significant degree of overlooking, over and above that which exists from the existing first floor windows serving the appeal property. The proposed window is situated c. 6 metres from the rear/northern site boundary and noting the distance concerned, I do not anticipate any overlooking of the lands to the north of the appeal site.

7.4 Other Issues

7.4.1 The third-party raises issues in relation to the visibility of the site notice. In terms of procedural matters, and alleged irregularities in relation to the location of site notices, I note that this was deemed acceptable by the Planning Authority. I am satisfied that this did not prevent the concerned party from making an observation. The above assessment represents my *de novo* consideration of all the planning issues material to the proposed development.

7.4.2 The third-party appeal submission notes that the concerns raised in their initial observation were not adequately considered by the Planning Authority. As stated, the above assessment represents my *de novo* consideration of all the planning issues material to the proposed development.

7.5 Appropriate Assessment

Having regard to the nature and limited scale of the proposed development, to the serviced nature of the site, the developed nature of the landscape between the site and European sites and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 Recommendation

Having regard to the above it is recommended that permission is granted based in the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the location of the site within the existing built-up area of Clondulane, to the prevailing pattern and character of existing development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. 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 completed in accordance with the plans and particulars lodged with the application, as amended by full plans and particulars received on 29 th September 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 with the planning authority prior to
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	<p>commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
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>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
4.	<p>The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<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> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

Ian Campbell
 Planning Inspector

3rd February 2022