



An
Bord
Pleanála

Inspector's Report ABP-310069-21

Development	Extension to ground floor store/garage, build and extend above and create an attic storage area and other works.
Location	305 Ard na Mara, Cartron Point, Sligo.
Planning Authority	Sligo County Council.
Planning Authority Reg. Ref.	20291.
Applicant	Conor Cosgrove
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant	Conor Cosgrove.
Observer	Patricia Mullen.
Date of Site Inspection	22 nd June 2021.
Inspector	Philip Davis

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1.0 Introduction

This appeal is by the applicant against the decision of the planning authority to refuse permission for side extension and related works to a suburban dwelling in Sligo Town. The grounds for refusal were the amenity impacts on the adjoining dwelling. One observation submitted supports the planning authority decision.

2.0 Site Location and Description

2.1. Cartron, Sligo

Cartron townland is a suburb to the north of Sligo Town on what was originally a low peninsula extending into the Cartron Marsh, part of the inner tidal estuary of Sligo Harbour. The peninsula is around 700 metres long and 300 metres wide and was farmland up to the latter half of the 20th Century, when it was developed as a suburban estate of mostly 2-storey semi-detached dwellings. These dwellings are mostly connected to the main link road via a number of cul-de-sac roads. It is approximately 1-km north-west from Sligo town centre.

2.2. Appeal site

The appeal site, no. 305 Ard na Mara, is the second last of a pair of semi-detached 2-storey 2 bay with side garage semi-detached houses on Ard na Mara, one of the cul de sac roads in Cartron terminating by the marshy shoreline. The house is somewhat elevated above the road and has a front and rear garden with a total site area given as 0.0276 hectares with the existing buildings gross floorspace given as just under 125 m². The rear garden of the house is on a substantial upward slope, so the rear of the garden is at more or less the same level as the first floor of the dwelling. There is a primary school to the rear of the site.

3.0 Proposed Development

The proposed development consists of works including the conversion of the side garage to residential use along with a first floor and attic level extension, adding a gross 25 m² additional floorspace to the dwelling.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for the works, for the reason that it was considered that it would seriously injure the residential amenities of the adjoining no.304 by way of overshadowing.

4.2. Planning Authority Reports

4.2.1. Planning Reports

There are two planning reports on file, one consequent to a request for further information.

- The site is zoned RE- 'existing residential' area. This type of development is considered acceptable in principle.
- The impact on the adjoining neighbour is noted, in particular what appears to be an overhanging gutter, and additional information would be required on this.
- Additional information requested.
- Following this submission, the next report concluded that the extension outwards of 1.37 metres from the rear is excessive and recommended refusal for this reason.

4.2.2. Other Technical Reports

Area Engineer: No objection subject to conditions.

4.3. Prescribed Bodies

None

4.4. **Third Party Observations**

The immediate neighbour objected, outlining concern about impact on amenities and on her foundations.

5.0 **Planning History**

There is one record referred to in the planning report – **PL18/474**, permission granted for the extension of first floor area above the existing garage (this was not implemented).

6.0 **Policy Context**

6.1. **Development Plan**

The site is in an area zoned RE – ‘*existing residential areas*’, with an objective to ‘protect and enhance existing residential amenity’ in the Sligo Town and Environs Development Plan 2010-16, which has been incorporated into the Sligo County Development Plan 2017-2023.

6.2. **Natural Heritage Designations**

The mudflats of Carney Marshes and Sligo Harbour surrounding Carney are designated SPA – the **Cummeen Sand SAC site code 004035** and SAC – the **Cummeen Strand/Drumcliff Bay SAC site code 000627**.

6.3. **EIAR**

Having regard to the nature of the proposed development and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- It is noted with regard to overshadowing, the applicants dwelling is north-west of the immediate neighbour.
- Photos are attached in support of the argument that shadows are cast away from the appeal site.
- It is noted that the planning authority quoted the 45° rule for vertical impact as this was not requested – further drawings are attached with the appeal indicating that the angle from the proposed extension to the rear window of the neighbours dwelling is less.
- With regard to planning history, it is noted that permission (**18/474**) has already been granted for a similar extension. This was not carried out because the neighbour did not provide consent to build on the jointly owned party wall, resulting in the redesign.
- It is argued that the extension is comparable to the impact of an exempted porch extension.
- It is submitted that in all other respects the proposed extension is in accordance with published guidelines and best practice.

7.2. Planning Authority Response

The planning authority refers the Board to the Planning Report and states that it additional information submitted with the appeal does not alter its decision.

7.3. Observations

An observation was submitted by the adjoining neighbour of no.304 Ard na Mara.

- Supports the decision to refuse.
- Notes the planning authority agreed that the 1.37 metres extension would seriously injure her residential amenities.

- Notes other amenity issues quoted in the report, including intrusiveness, scale and location.
- Quotes from South Dublin County Council 'House Extension Design Guide' with regard to overshadowing and design.
- Notes 'tunnelling effect' as described in the SDCC guidance.
- Submits that the shadow diagram submitted by the applicant does not show clearly the extend of shadowing in the evening in springtime.
- It is argued that it is a significantly different design than that previously granted permission.

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following general headings:

- Preliminary issues
- Principle of development
- Pattern of development
- Residential amenity
- Other issues
- Appropriate Assessment

8.1. Preliminary issues

The reason for refusal for this proposed development relates primarily to amenity (daylight), but an issue highlighted by the observer in the original application and in the submission to the Board outlines concerns about interference with guttering and other features that appear to extend beyond the notional property line. From my site visit it does appear that to construct the proposed development would involve at a minimum works to alter the roof drainage arrangements for the neighbouring garage conversion. I would regard these as civil issues between the parties and as such the provisions of Section 34(13) of the Act applies, i.e. "*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*"

8.2. Principle of development

The appeal site is in an established residential area zoned for the protection of residential amenities. There are no specific designations or other policies applying to this type of development, although extensions would generally be considered favourably in such areas.

The proposed development should therefore be assessed on its own merits having regard to general guidelines on extensions and alterations outlined in the development plan.

8.3. Pattern of development

The proposed development is within an estate of semi-detached dwellings typical of the period. The area has matured – most houses have converted the side garages to other uses, although there are no side 2 storey extensions of this type along the road. While the proposed extension to the side would be the first on this road and would disrupt the generally consistent pattern of development in the area, I would not consider it to be unacceptable given the reasonable aspiration of residents to alter and increase the size of their dwellings over time.

8.4. Residential amenity

Although it doesn't state it clearly, from the information on file it would appear that the primary reason the planning authority refused permission was concern at the impact on sunlight to the front of no.304. The proposed development follows the building line of the main house, not the slightly set back building line of the garages. This has a certain logic to it in that it allows the proposed extended roof line to match that of the existing ridge/pitch which would make for simpler construction, although it could certainly be argued that following the garage line would allow for a more articulated architectural form. There are no other such extensions in the locality to assess which design approach is more appropriate. The rear building line of the garages matches the rear building line of the main houses, and the proposed extension does not break this pattern.

The front of the dwellings along this side of Ard na Mara face north, or more slightly N-NE, so they would get little direct sunlight, especially in winter. In summer, the

fronts would only get some direct sunlight in the early hours of the morning. As such, I would consider the simple sunlight assessment submitted with the appeal to be generally accurate, although it seems to indicate direct some sunlight hitting the front windows directly during January, which seems unlikely in reality. In contrast, the orientation of the houses is such that they would get plenty of direct sunshine to the rears, at least in the summer months – the rise in levels to the rear may restrict sunlight to upper floors due to the low angle of the sun in winter.

The planning authority quoted the '45°' rule of thumb with regard to the impact on the front window of the converted garage to the neighbour. The proposed extension would be pretty much at 45 degrees to the centre point of this window but having regard to the orientation – essentially blocking light from the north – the impact on direct or indirect light would be very minor. I do not consider this to justify a refusal on amenity grounds.

It could be argued that in design terms it would be better to set back the proposed extension to the garage building line, but this would require a significant redesign, including a reconsideration of the roof pitch. As such, if the Board was minded to set this by condition, I would recommend that the applicant be requested to submit revised designs.

I would conclude therefore that the direct impacts on residential amenity of the neighbour would be very minor and does not justify a decision to refuse.

In other respects, I consider that the proposed extension would not impact on the amenities of other properties, nor would it impact the amenities of rear of the adjoining properties.

8.5. Other issues

The site is fully serviced and would not involve any works on undeveloped lands, so I do not consider that there are implications for services, flooding, drainage, or potential archaeology. There are no protected structures in the vicinity. The proposed development would be subject to a standard S.48 development contribution.

8.6. **Appropriate Assessment.**

The appeal site is on a small peninsula jutting into a harbour which is designated both SAC and SPA - the **Cummeen Sand SAC site code 004035** and SAC – the **Cummeen Strand/Drumcliff Bay SAC site code 000627**. These are designated for a range of shoreline, dune, mudflat and littoral habitats and associated birds and other species, and the conservation objectives are generally to maintain the favourable conservation condition of these habitats and species. The appeal site is within 100 metres of the shoreline and designated area – there is a grassy slope down from the houses to the shoreline. Notwithstanding this, the works are minor and on an already built footprint and the site is served by Sligo Town’s water and sewerage and as such there would be no direct disturbance of habitat, no pathways for pollution and no potential for indirect or cumulative impacts.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 004035 or any other European site, in view of the site’s Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 **Recommendation**

I recommend that the Board grant permission for the following reasons and considerations, subject to the conditions set out in section 11 below.

10.0 **Reasons and Considerations**

Having regard to the “RE – existing residential” zoning designation of the area and the orientation, nature and extent of the proposed side extension, it is considered that subject to the conditions set out below the proposed development would not seriously injure the amenities of the area and would otherwise be in accordance with the proper planning and sustainable development of the area.

11.0 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. 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 external finishes of the proposed extension, including tiles and slates, shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and 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.

4. Site development and building works shall be carried out only between the hours of 0700 to 1900 hours 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. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area

of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Philip Davis
Planning Inspector

30th June 2021