



An
Bord
Pleanála

Inspector's Report

ABP-310731-21

Development	Retention of existing structure and permission for completion and conversion of same to a house and associated site works.
Location	The Mews, rear of Violet Cottage, Clonminch Road, Tullamore, Co. Offaly.
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	21201
Applicant(s)	Kate O'Shea
Type of Application	Retention and Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Kate O'Shea
Observer(s)	John and Anne McKeown Maureen Galvin and John McNamara Maureen and Colin Miller Frank and Brenda Kelly Maeve Bracken

Date of Site Inspection

8th September 2021

Inspector

Ian Boyle

1.0 Site Location and Description

- 1.1. The subject site is located at the rear of Violet Cottage, Clonminch Road, Tullamore, Co. Offaly, near the southern entry point into Tullamore town centre. It accommodates a partially built structure (permitted garage), and there is semi-mature and mature trees and vegetation around the periphery of the site. The land is generally flat and has a stated area of approximately 430 sq m.
- 1.2. There is an existing access to the site at its western boundary from the adjoining residential estate called Deerpark. Deerpark accommodates 5 no. detached houses within a cul-de-sac and is also accessed from Clonminch Road to the east (R443).
- 1.3. Clonminch Road continues south past the site where it meets the junction with the N52 Tullamore Ring-Road, after which point the N80 continues southwards in the direction of Portlaoise. The 50kph urban speed limit is in place at the front of Violet Cottage and the entrance into Deerpark.
- 1.4. The wider surrounding area is characterised by a mix of low-density, detached and semi-detached housing and commercial development.

2.0 Proposed Development

- 2.1. The proposed development is for retention of an existing partially-constructed building, and an extension of this structure to be used as a residential dwelling. The proposal also includes the provision of associated private open space and ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission on 4th June 2021, subject to 3 no. reasons:

- i) The proposal would seriously injure the amenities of future occupants of the proposed house by reason of overlooking having had regard to the proximity of existing adjoining residential properties.

- ii) The proposal would endanger public safety by reason of traffic hazard or obstruction of road users.
- iii) The proposed development would contravene Condition No. 7 (Reg. Ref. 061) which requires that the permitted garage shall not be used for human habitation, or any commercial activity or for any other purposes than a purpose incidental to the enjoyment of the dwelling.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Private open space (POS) exceeds the minimum standard required of 75 sq m. However, not all of the POS is situated behind the building line. If sightlines for the ingress and egress of vehicles were drawn on the Proposed Site Layout Plan, this could potentially sever the private open space area within the northern part of the site.
- Given the proximity of the proposed dwelling to Violet Cottage, which is to the east, the proposed first floor windows of the house would overlook the rear curtilage of the existing dwelling with less than 10 metres separation between the structures. The additional roof lights proposed on the eastern roof profile could also potentially give rise to overlooking.
- Achieving adequate sightlines to facilitate safe access and egress would necessitate works outside the site and the Applicant's landholding. No request for consent to remove mature trees and hedgerows have been submitted by the Applicant.
- Provided the proposed velux windows are sufficiently high not to cause overlooking, the issue of opposing first floor windows does not arise, either in relation to Violet Cottage or other properties to the west.

3.2.2. Other Technical Reports

- The Council's Area Engineer raised concerns and recommended that Further Information be sought:

- Applicant has failed to demonstrate how adequate sightlines can be achieved entering onto Deerpark from the proposed development (refers to Section 4.4.4 'Forward Visibility' of Design Manual for Urban Roads and Streets, 2019).
- Applicant has not clarified details in relation to serving the proposed dwelling with mains water, method of sewer disposal or surface water disposal.
- The Council's Roads and Traffic Safety Department recommended that Further Information be sought:
 - Proposed car parking and internal turning area details have not been provided.
- Environment and Water Services: No objection, subject to conditions.

3.3. Prescribed Bodies

- Irish Water: No objection, subject to conditions and meeting Irish Water connection agreement requirements.

3.4. Third Party Observations

A total of 5 no. third party observations were received by the Planning Authority from residents in the surrounding area. The main issues raised can be summarised as follows:

- The partially constructed building is unauthorised development.
- The existing unauthorised development is incongruous with existing pattern of development in the area.
- Proposal would result in overdevelopment of the site and has insufficient private open space.
- Proposed vehicular entrance is dangerous and located too close to the bend in the internal access road.
- Insufficient space for parking and turning radii on the site.

- Visual intrusion and overlooking of the existing dwelling (Violet Cottage) and adjacent houses in the area.
- Proposal would set a precedent for other houses directly accessed from Clonminch Road.

4.0 Planning History

Subject Site

Reg. Ref. 20/256: The Planning Authority refused permission on 21st August 2020 for the retention of the existing onsite building, and permission for an extension of this structure and for it to be used as a dwelling.

Reg. Ref. 06/1: On the 24th February 2006, the Planning Authority granted retention permission for a garage (as constructed), and a boundary wall and entrance gates to the north and west of the site; and granted permission to extend the garage, arched access and fuel store.

5.0 Policy Context

5.1. *Tullamore Town And Environs Development Plan 2010-2016 (as extended and varied)*

The site is zoned 'Residential' under the *Tullamore Town and Environs Development Plan 2010-2016 (as extended)* ('Development Plan'). A residential use is listed as 'Normally Permitted' under this zoning objective. The relevant development management standards for the proposed development are set out under Chapter 14 of the Development Plan, and include the following:

- 14.2.1.4 *Dwelling Design*
- 14.2.1.7 *Private Open Space (Residential Development),*
- 14.2.1.8 *Privacy and Residential Amenity,*
- 14.2.1.9 *Space around Buildings.*
- 14.2.4 *Infill*

Section 14.2.4 ('Infill') of the Development Plan relates to the provision of residential development within existing residential or mixed-use developments. Infill development is encouraged, particularly where they eliminate a derelict structure or vacant site. The following guidelines apply:

- Site density, coverage and open space requirements will be considered on a site-specific basis to permit a development to integrate with the existing adjoining development. The development management standards set out for new residential developments may be relaxed in the case of infill developments.
- Design, height, scale, materials, and finishes utilised should be compatible with existing adjacent properties.
- The height of the building should be broadly similar to adjoining properties, particularly in relation to eaves and ridge roof levels.
- Boundary treatment should ensure an effective screen between proposed and existing development.
- Private open space should provide space for bin and fuel storage areas.
- Car parking provision in accordance with standards outlined in this chapter. In cases where this is not possible, a contribution to the Local Authorities towards the provision or improvement of alternative car parking in the area.

5.2. National Planning Policy

- *Design Manual for Urban Roads and Streets, 2019*
- *Quality housing for Sustainable Communities – Best Practice Guidelines, 2007*
- *Sustainable Residential Development In Urban Areas – Guidelines for Planning Authorities, 2009*
- *Urban Design Manual: A Best Practice Guide, 2009*

5.3. Natural Heritage Designations

There are no designated European sites within the vicinity of the subject site. Charleville Wood SAC and pNHA (Site Code 000571) are the nearest and located approximately 1.8km and 2.1km metres to the west of the site, respectively.

5.4. EIA Screening

Having regard to the nature and small scale of the proposed development, which is for a single infill residential dwelling within a fully serviced urban area, and its proximity to the nearest sensitive location, 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

A First Party Appeal against Decision to Refuse Permission has been lodged by the Applicant. The main grounds of appeal are as follows:

- The Planning Authority have not acknowledged the changes made to the current scheme since permission was refused for a similar, proposed development under Reg. Ref. 20/256 (retention of existing onsite building, and permission for its extension and to be used as a dwelling).
- The proposed dwelling has been redesigned so that overlooking from the dwelling, or into the appeal site, would not be possible. The Planning Authority have referenced the proximity of Violet House and that it's occupants would overlook the subject site. However, this is not the case due to the particular design of the proposed development, which has no windows on the rear elevation of the house (with the exception of rooflights).
- The Planning Authority have assessed the development proposal as though it enters onto a main road, and have consequently determined that it would endanger public safety by reason of presenting as a traffic hazard or

obstruction to road users. The Council's requirement to achieve sightlines when entering or existing the appeal site is not necessary. It would also be possible to reduce the height of the existing vegetation to the north of the proposed access, thus, improving visibility for vehicles entering and existing the site.

- It would be possible for cars within the site to complete a manoeuvre that would allow them exit in a forward-facing motion.
- The Planning Authority states that the proposed development would contravene Permission Reg. Ref. 06/1 (Condition No. 7), which requires that the permitted garage will not be used for human habitation. The Applicant states that the current proposal seeks to supersede the previous permission and that this has been made clear in the planning application documentation.

6.2. Planning Authority Response

- None.

6.3. Observations

A total of 5 no. observations have been received from residents in the adjoining residential estate (Deerpark), which supports the Planning Authority's Decision to refuse permission. The concerns raised are similar to those iterated in Section 3.4 above.

7.0 Assessment

The main planning considerations relevant to this appeal case are:

- Residential Amenity
- Traffic and Access
- Previous Planning Condition
- Layout and Design (new issue)
- Appropriate Assessment

7.1. Residential Amenity

- 7.1.1. The Planning Authority's Reason for Refusal (No. 1) states that the proposed dwelling would seriously injure the amenities of future occupants due to undue overlooking caused by the proximity of the existing, adjoining house to the east (Violet Cottage). The Planner's Report notes that the separation distance between the opposing structures would be less than 10m.
- 7.1.2. As indicated by the Applicant the particular window arrangement proposed as part of the current application seeks to address the potential for overlooking the property to the east. (It is noted that overlooking was a previous reason for refusal for Reg. Ref. 20/256).
- 7.1.3. The proposed rooflights would be above head height of the occupants. There is limited detail on the drawing cited in the Appeal regarding the location or height of the proposed rooflights (Section A-A, Drwg No. 21.086-PP-05). However, Drwg No. 21.086-PP-05 (Proposed Rear Elevation) clearly shows that there are no proposed first floor windows on the rear elevation of the dwelling. Therefore, there would be no opposing first floor windows between the proposed, and existing, dwellings. The drawing also shows that the proposed rooflights would be placed well above head height and positioned at an angle on a pitched roof. It is also noted that the rooflights above the landing area use obscure glazing.
- 7.1.4. In summary, I do not consider that the proposed development would injure the residential amenities of the area or of property in the vicinity, by way of overlooking, or otherwise, and would provide an acceptable standard of amenity for future residents.

7.2. Traffic and Access

- 7.2.1. The Planning Authority's Reason for Refusal (No. 2) refers to the proposed development endangering public safety by reason of being a traffic hazard or obstruction to road users.
- 7.2.2. A report prepared by the Council's Roads and Traffic Safety Department requested further information regarding sightlines at the proposed new entrance arrangement to the development, car parking, and if an internal turning area could be

accommodated onsite. The Planner's Report also stated that the achievement of adequate sightlines would require works offsite, including tree and hedgerow removal, and which would be outside the control of the Applicant.

- 7.2.3. The Applicant submits that the Planning Authority's requirement to achieve sightlines when entering or existing the appeal site is not necessary and should not be required in this instance. This is because the site is in an urban area where speed is naturally limited and is a low traffic environment (i.e. a cul-de-sac with only 5 no. residential units). The Applicant states that the speed of vehicles is likely to be much less than 30kmph, and more likely 15kmph, which would be typical of a quiet, residential street.
- 7.2.4. The Applicant also states that it would be possible to reduce, manage and monitor the height of the existing vegetation located to the north of the proposed access splay, thus, improving visibility for vehicles entering and existing the site, and for others vehicles passing by. I note that the appeal site does not extend around the full extent of this vegetation. However, it would not be necessary, in my opinion, to reduce and manage this in order to accommodate the proposed development from an access perspective.
- 7.2.5. Reference is made to Section 4.4.4 of the Design Manual for Urban Roads and Streets, 2019 (DMURS), where Table 4.2 states that reduced forward visibility increases driver caution and reduces vehicle speeds. The Applicant states that this is applicable to Deer Park where slow vehicle speeds are experienced.
- 7.2.6. I consider that vehicular movements within the estate are likely to be relatively infrequent, mainly due to the small number of dwellings accommodated within it (i.e. 5 houses). The potential for vehicular traffic conflicts caused by the proposed development would, therefore, be limited and the risk of a collision relatively low. I have inspected the collision statistics on the Road Safety Authority (RSA) website, which includes records of road traffic collisions for the period 2005 - 2016 inclusive, and which provides basic information on all reported collisions. The statistics show that there are no recorded collisions on Deer Park, or where the Deer Park meets Clonminch Road.
- 7.2.7. From visiting the site, it is apparent that the bend in the street lends itself to encouraging increased driver caution and acts as a useful traffic calming tool.

Section 2.1.2 of DMURS is relevant in this regard, where it is stated that clearer sightlines and wide carriageways allow for greater driver reaction time/error correction. Whilst this approach is sensible on isolated roads, within urban areas it can be counter productive as it may transfer risk to more vulnerable users (such as pedestrians). In summary, vehicles could reasonably be expected to reduce their speed upon entering the estate and approaching the bend in the street. It is also noted that there is already an existing access to the site on its western boundary and that a set of entrance gates in this location was granted permission under Reg. Ref. 06/1 in February 2006.

- 7.2.8. In relation to the issue of an internal turning area, while the Applicant states that it would be possible to facilitate such an arrangement – so that they could exit in a forward-facing fashion – no evidence of this, either in the form of an internal turning analysis, or otherwise, has been provided. It is considered, however, that as the driveway and area in front of the proposed dwelling is physically spacious, it would facilitate the manoeuvring of vehicles onsite, and that parking and access arrangements would not be likely to be problematic. There is also adequate space for bin storage.
- 7.2.9. The footpath on the opposite side of the street is considered sufficient to cater for pedestrian movements generated by the proposed development. The existing pathway is relatively wide and there is a grass verge separating it from the edge of the road.
- 7.2.10. In summary, I consider that the proposed development would not endanger public safety by reason of a traffic hazard, or give rise to obstructing road users.

7.3. Previous Planning Condition

- 7.3.1. The Planning Authority's Reason for Refusal (No. 3) is that the proposed development would contravene Condition No. 7 (Reg. Ref. 06/1). This requires that the existing structure on the site (i.e. a permitted garage) must not be used for human habitation, or any commercial activity other than a purpose that is incidental to the enjoyment of the existing dwelling onsite.
- 7.3.2. I am satisfied, however, that this is not adequate grounds for refusing permission. The proposed development clearly seeks to convert the permitted garage building to

a dwelling. There is nothing to preclude the Applicant from seeking permission for such a change of use, and I consider that, if permission is granted for the proposed house, then this would supersede the previous permission for a domestic garage.

7.4. Layout and Design (New Issue)

- 7.4.1. Section 14.2.4 ('Infill') of the Development Plan states that infill residential development is encouraged, particularly where it eliminates a derelict structure or vacant site. The development of underutilised infill sites, therefore, in existing residential areas is generally supported. A balance is needed, however, between the protection of existing and future residential amenities.
- 7.4.2. The subject site is an infill site located within an established residential estate. It is within a 20-minute walk of Tullamore town centre, which is approximately 2km to the north. The wider surrounding area consists of a mix of housing styles and there is no single prevailing building type or design. The overall style, appearance and scale of the proposed dwelling would be similar to the houses within its immediate receiving environment (i.e. Deerpark).
- 7.4.3. The design of the proposed dwelling has a pitched roof with an overall height of 7.5m. It has a similar size, scale, and layout as the other houses on the street. The pitch and finish of its roof matches the existing pattern of residential development. It is proposed to accommodate two off-street car parking spaces at the front of the house, which is in accordance with the relevant standard as per the Development Plan.
- 7.4.4. The drawing details indicate that napped plaster will be the primary façade treatment for the dwelling and natural slate will be used for the roof coverings. Therefore, the proposal offers a gentle diversity, but also respects the legibility of the existing houses on the street, which adopt a similar design and appearance.
- 7.4.5. The private open space for the proposed development equates to 142 sqm. This is derived from the proposed courtyard area within the southwest corner of the site (52 sq m) and a garden that wraps around the proposed house to the side (north) and rear (east). The proposed private open space exceeds the minimum required, as per the Development Plan, which is 75 sqm. Both private open space areas would be useable, quality spaces, and have good privacy. There is an established strip of

vegetation along the site's northern boundary in the form of a dense hedge, and there are mature trees present both on, and around, the site which would assist in screening the proposed, future house.

- 7.4.6. In summary, I consider that the proposal is appropriate and in keeping with its surrounding context, and is in accordance with the Development Plan, including the applicable development management standards and Section 14.2.4 (infill development).

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development, which is for a single infill dwelling in an established urban and serviced area, the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, 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

- 8.1. I recommend that planning permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Tullamore Town and Environs Development Plan 2010-2016 (as extended), and to the nature, design and layout 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 amenities of the area or of property in the vicinity, would provide an acceptable standard of amenity for future residents, and be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Site development and building works shall be carried out only between the hours of 0700 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
3.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
4.	<p>The developer shall pay to the planning authority a financial contribution respect of public infrastructure and facilities benefitting 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 the 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 developers or, in default of such agreement, the matter</p>

	<p>shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
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Ian Boyle

Planning Inspector

13th October 2021