



An
Bord
Pleanála

Inspector's Report

ABP-310966-21

Development	First floor extension storage area of 35sqm to the north of the existing building.
Location	Mount View, Church Road, Greystones, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	21569
Applicant(s)	O' Connor Whelan Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Mary O' Reilly
Observer(s)	None
Date of Site Inspection	22 nd October 2021
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site is located on the northern side of Church Road in the centre of Greystones, Co. Wicklow. The site itself is roughly wedge shaped with a stated area of 0.636 hectares.
- 1.2. The site has been redeveloped in the last two years to provide for a two storey mixed used development including commercial and residential uses. There is a large outdoor seating area associated with the restaurant on site, to the front of the existing building.
- 1.3. The site is located within a designated Architectural Conservation Area.

2.0 Proposed Development

- 2.1. Permission is sought for a first floor extension to provide a storage area for the existing restaurant. The area of the proposed extension is 35m². It is proposed that the first floor extension will be supported by 3 No. columns in order to facilitate the right of way to the dwelling to the rear of the site.
- 2.2. The proposed extension is slightly lower than the existing building and set back from the existing building line.
- 2.3. The application is accompanied by a number of additional documents including a planning report, an engineer's letter, and a solicitor's letter in relation to the right of way and deeds to the property.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission granted subject to 4 No. Conditions. All conditions are of a standard nature for this type of development.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- No objection to development. Considers that the design is appropriate to allow for sufficient right of way access and that it would not hinder future development.

3.2.2. Other Technical Reports

Roads: No observations.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection subject to conditions.

3.4. Third Party Observations

3.4.1. One third party observation was submitted to the Planning Authority. The issues raised are similar to those raised in the grounds of appeal.

4.0 Planning History

PA 16/838/ ABP PL27.247420

Permission refused by PA and by the Board on appeal for a new two storey extension and change of use to retail and offices.

PA 17/421

Permission granted for two storey extension and change of use to retail and offices.

PA 17/1027

Permission granted for a variation to PA 17/421, including a change of use to restaurant on both levels together with a take-away service and elevational changes.

PA 17/1249

Permission granted for variations to the above for a variation to PA 17/421, including outdoor seating for 48 people (65m²).

PA 18/320

Permission granted for a variation to PA 17/421 including partial change of use of the office to residential including a velux rooflight.

PA 18/814/ ABP 303693-19

Permission refused by PA and granted by the Board on appeal for a variation to PA 17/421 to provide for a partial change of use of the previously approved office at first floor level in the previously approved two storey extension to a single bedroom studio apartment including a balcony on the front elevation.

5.0 Policy Context

5.1. Development Plan

Greystones is a designated Level 3 'Large Growth Town' in the Wicklow County Development Plan 2016-2022. The area is zoned Town Centre (TC).

'To protect, provide for, and improve the development of a mix of town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' residential accommodation, or other ancillary residential accommodation. To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and promote urban design concepts and linkages between town centre activity areas.'

The site is within the Church Road Architectural Conservation Area, with policy HER12, which seeks to preserve the character of ACA's in accordance with the details in Appendix B of the Plan. The designation was originally set out in the Greystones-Delgany and Kilcoole LAP 2013-2019. Relevant ACA policies include BH18 and BH19.

5.2. Natural Heritage Designations

5.2.1. The nearest European site is Bray Head SAC/ pNHA, c. 2km to the north of the site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for Environmental Impact Assessment can therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:

- The proposed extension will restrict and reduce the right of way.
- Further development of my site will be restricted.
- Impact on natural light.
- The proposed development is unsightly and not in-keeping with the development on Church Road.

6.2. Applicant Response

- Response received outside of the appropriate 4 week time period which was returned.

6.3. Planning Authority Response

- None.

6.4. Observations

- None.

7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings:

- Impact on Right of Way
- Other Matters
- Appropriate Assessment

7.2. Impact on Right of Way

- 7.2.1. The primary issue raised in this appeal relates to the impact on the existing right of way to the rear of the site and the impact on the development potential of this site.
- 7.2.2. The proposed access to the site provides for an avenue with a width which varies between 3.1 and 3.7 metres and a height of 3.7m. The storage area proposed is at first floor level over the existing right of way and is to be supported by 3 columns. Appendix 2 of the application contains a letter from a consulting engineer which states that the proposed extension is structurally viable and will have minimal impact on the width of the avenue and will enable vehicular access to the rear of the site. Appendix 3 of the application contains a solicitor's letter which states that the property to the rear has a right of way contained in a 1962 Deed of Assignment. It states that the head height which has been applied for is 3.7 metres which is a fire tender access height. It concludes that 'therefore, the owners of the property will not be prejudiced and their full right of way will remain.'
- 7.2.3. The planner's report states that the width of the right of way will be reduced by 0.275m and the proposed design allows for sufficient right of way access and would not hinder possible future development of the property.
- 7.2.4. Having examined the information on the file, I consider that the proposed design allows for sufficient right of way access and would not unduly hinder future development of the property to the rear. Section 34(13) of Planning and Development Act 2000 states the following: 'A person shall not be entitled solely by reason of a permission under this section to carry out any development.' Section 5.13 of the Development Management Guidelines for Planning Authorities states that

the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. As such, the Board has no further role in this matter.

7.3. Other Matters

- 7.3.1. Concern is raised in the appeal regarding the impact of the proposed extension on the designated ACA at this location. I note that the size of the extension proposed is c. 35 square metres and it is both set back from the main building and at a lower height. The extension proposed has a hipped roof similar to other buildings in this area and will essentially fill in a gap on the urban streetscape without detracting from Church Road and the designated ACA at this location.
- 7.3.2. I consider that the proposed storage area is a modest intervention and is appropriate at this town centre location. In my view, it will not unduly impact on either the visual or residential amenities of the area.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion 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 Natura 2000 site.

8.0 Recommendation

- 8.1. I recommend a grant of permission.

9.0 Reasons and Considerations

Having regard to the pattern of development in the area and the design and scale of the proposed storage area and the provisions of the Wicklow County Development Plan 2016-2022, it is considered that subject to compliance with the conditions set

out below, the proposed development would not seriously injure the visual amenities of the area or the character of the streetscape and would not seriously injure the amenities 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 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. 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.

3. Details of the materials, colours and textures of all the external finishes to the proposed extension shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. 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.

Emer Doyle
Planning Inspector

5th November 2021