



An
Bord
Pleanála

Inspector's Report

ABP-310992-21

Development	Retention permission for dwelling alterations comprising enlarged garage and new garage roller door, first floor terrace over flat roof including an external staircase, and changes to size and fenestration of windows
Location	18 Church Street, Dungarvan, Co Waterford, X35 T250
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	21413
Applicant(s)	Scott and Jane Berryman
Type of Application	Retention
Planning Authority Decision	Grant
Type of Appeal	First Party (Against Condition)
Appellant(s)	Scott and Jane Berryman
Observer(s)	None
Date of Site Inspection	7 th October 2021
Inspector	Ian Boyle

1.0 Site Location and Description

- 1.1. The appeal site has an address at 18 Church Street, Dungarvan, Co. Waterford, X35 T250. It is situated on the corner between Church Street and New Lane and is approximately 300 metres to the southeast of Dungarvan town centre. The site accommodates an existing two-storey, end-of-terrace house.
- 1.2. The site is adjoined to the north by 19 Church Street, which is a residential property accommodating a dwelling of similar scale, size, and appearance; the east by a storage yard; the south by New Lane; and the west by Church Street, which runs along the front part of the property.
- 1.3. The surrounding area is characterised by a mix of residential, commercial business and recreational uses that is typical of a town centre environment.
- 1.4. The site has a stated area of approximately 170sqm.

2.0 Proposed Development

- 2.1. Retention permission is sought for works to the existing house, and including modifications to Permission Reg. Ref. PL18/333, comprising the following:
 1. Enlarged domestic garage, including a garage roller door;
 2. External terrace at first floor level over existing flat roof with external staircase;
 3. Size and fenestration changes to permitted projecting bay window at first floor bedroom; and
 4. Size and fenestration changes to permitted rear dormer window with Juliet balcony at second floor level (roof).

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission on 6th July 2021, subject to 4 no. conditions. Conditions 1(b) and (c) are as follows:

- the first floor terrace over the existing flat roof and the associated external staircase be excluded from the grant of permission; and
- the external staircase be removed within three months of the date of the grant of permission, that the glazed screens that enclose the area be also removed, and the flat roof terrace shall not be made accessible to the occupants of the property or used as an external terrace area.

Reason: In the interest of clarity and to clarify the development to which this retention permission relates and in the interest of proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.3. Planning Reports

3.3.1. The Planner's Report recommended that retention permission be granted for the enlarged domestic garage, including the garage roller door, and changes in size and fenestration arrangement to the projecting bay window at first floor bedroom, and rear dormer window including Juliet balcony. It was also recommended, however, that retention permission be refused for the external terrace at first floor level and the external staircase.

3.3.2. The following main points were made:

- The height of the garage is not significantly altered and remains single storey (as permitted under Reg. Ref. PL18/333). The modifications for which retention permission are sought do not detract from the visual or residential amenities of the area and are acceptable.
- The appearance of the projecting bay window to first floor bedroom has been changed from a traditional type pitch dormer window to a contemporary box window. The change is visually acceptable and would not give rise to any additional overlooking or impact on adjoining residential amenities. The increase in floor area is marginal at approximately 0.6sqm only.
- The permitted traditional type dormer window with pitched roof has been changed to a contemporary box window with an increased size. It does not

detract from the visual or residential amenities of the area, and does not provide any additional views into any adjoining properties.

- The external terrace is the location where a 'green roof' was previously proposed. It is 17.4sqm and accessible from an external staircase. The terrace is not accessible from the first floor and adjoins a bay window. There are direct views from the terrace and the external staircase down into the rear garden of the adjoining property to the north (No. 19 Church Street).
- Ultimately, the roof terrace and access stairs provide views into an adjoining private amenity space, that would not be available if the terrace and staircase were not in situ. The resulting views negatively impact the residential amenities of adjoining property, therefore, retention permission should not be granted.

3.3.3. Other Technical Reports

Conservation Officer: No response received.

Senior Assistant Chief Fire Officer: No response received.

Heritage Officer: No response received.

3.4. Prescribed Bodies

Department for Culture, Heritage and the Gaeltacht (Archaeology and Architectural Heritage Department): No response received.

4.0 Planning History

Subject Site

Reg. Ref. 21/135: The proposed development sought permission for modifications to the existing dwelling, including removal of the rear pitched roof and provision of a flat roof extension over an existing bedroom and widening of 2 no. existing rooflights.

The Planning Authority requested further information on 15th April 2021, including: the preparation and provision of 'shadow projections' to demonstrate if the proposal could give rise to overshadowing of adjoining amenity spaces (Item 1a); and an invitation to the Applicant to consider the potential removal of the second floor

terrace as it would have the potential for overlooking of adjoining properties (Item 1b).

The Planning Authority also noted, that during the site inspection, certain works carried out onsite did not appear to comply with Permission Reg. Ref. 18/333. On foot of this, the Applicant is now seeking to regularise these works as part of the current appeal, which is before the Board for consideration under ABP Ref. ABP-310992-21. [Note: At the time of writing, the Applicant had not provided a response to the Council's further information request.]

Reg. Ref. 18/333: The Planning Authority granted permission for works at the rear of the property, including for a dwelling extension, changes to boundary wall on New Lane, new garage and pedestrian access on to New Lane, a bedroom extension at first floor level, enlargement of dormer window, and associated site works on 29th February 2012.

5.0 Policy Context

5.1. Dungarvan Town Development Plan 2012-2018 (as extended and varied)

- 5.1.1. The site is zoned 'Town Centre' under the Dungarvan Town Development Plan 2012-2018 (as extended and varied), which seeks *"to provide for an integrated mix of residential, commercial, community and social uses within the town or village centre"*.
- 5.1.2. The site is also located within an Architectural Conservation Area (ACA), and Area of Archaeological Potential (AAP). Section 10.41 of the Dungarvan Town Development Plan 2012-2018 seeks to ensure that any development, modifications, alterations, or extensions affecting any structure within an ACA are sited and designed appropriately, and are not detrimental to the character of the structure, or to its setting or the general character of the ACA.

5.2. Waterford County Development Plan 2011-2017 (as extended and varied)

- 5.2.1. Section 4.5 'Sustainable Community Settlement' states *"that the County Settlement Strategy is aimed at ensuring that towns and villages offer attractive and affordable housing options to meet the housing needs of urban and rural communities"*.

5.2.2. Section 7.8 of Variation 1 of the Waterford County Development Plan 2011-2017 (as extended and varied) sets out the development design standards for proposed residential development. The guidance in relation to house extensions states that *“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”*.

5.2.3. Variation 1 also states that extensions should:

- *“Follow the pattern of the existing building as much as possible.*
- *Be constructed with similar finishes and with similar windows to the existing building so that they will integrate with it.*
- *Roof form should be compatible with the existing roof form and character. Traditional pitched roofs will generally be appropriate when visible from the public road...”*

5.3. **Natural Heritage Designations**

No designations apply to the subject site.

The nearest European Site is approximately 70m to the east, which is the Dungarvan Harbour Special Protection Area (Site Code 004032).

Dungarvan Harbour (Proposed Natural Heritage Area) (Site Code 000663) is approximately 110m to the south.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A First Party Appeal against Condition Nos. 1(b) and (c) been lodged by the Applicant. The main grounds of appeal are as follows:

- No objections or observations have been received from any neighbours, or third parties, against the proposed retention application, which demonstrates that there are no local concerns regarding the works.

- The guarding at the east and south sides of the terrace area are 1.1m high clear glass balustrades, which overlook the patio of the appeal site. Views to the south, towards New Lane, from the existing roof deck are similar to those already available from the east facing dormer window. Therefore, there is no additional impact caused by way of overlooking from the terrace onto New Lane.
- The deck does not have any views of any other residential property other than the eastern garden area of No. 19 Church Street, which is directly to the north. All other properties which share a boundary with the appeal site are either single storey commercial buildings, or ancillary yards / used for non-residential storage. (The Applicant has provided a map of the appeal site with the uses of adjacent properties marked up. See Figure 1 of the appeal submission.)
- The Applicant proposes, by way of revised drawings, appended to the appeal, that the existing glass panels which provide screening along the northern side of the terrace could be extended, and conditioned by the Board, to allay any concerns regarding potential overlooking of No. 19 Church Street. [Photographs 7 and 8 (on Page 3) of the Applicant's appeal indicate the approximate extent and height of the proposed, new glass panels that would assist in preventing overlooking of No. 19. Refer to Drwg. 717-ABP-101 for technical details.]

6.2. Planning Authority Response

- None.

7.0 Assessment

- 7.1. This is a First Party Appeal against Condition Nos. 1(b) and (c), as attached to the Planning Authority's Notification of the Decision to Grant Planning Permission.
- 7.2. Following my examination of the planning file, and grounds of appeal, I consider it appropriate that the appeal should be confined to Condition Nos. 1(b) and (c) only. Accordingly, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted and that the Board should determine the matters raised in the appeal only in accordance with Section 139 of the *Planning and Development Act 2000*, as amended.

7.3. The main planning considerations relevant to this appeal case are:

- Residential Amenity
- Architectural Conservation Area (New Issue)
- Appropriate Assessment

7.4. Residential Amenity

- 7.4.1. The key issue for assessment relates to the first floor terrace / roof deck, and its potential for visual and residential amenity impact on its receiving environment, particularly that of No. 19 Church Street, which directly abuts the appeal site to the north. The external staircase, which provides access to the roof deck from ground level, also requires assessment.
- 7.4.2. The drawings submitted as part of Application Reg. Ref. 18/333 indicate that the area where the existing terrace is currently situated was proposed to be a 'green roof'. The Appellant notes, however, that during the construction phase an opportunity arose whereby the Applicant decided to build a roof deck instead. The terrace has been in place for two years, approximately, and it is stated within the appeal that there have been no complaints from neighbouring landowners or any third parties.
- 7.4.3. The terrace is partially enclosed by obscured 1.6m high glass panels at its northern side, which is the shared boundary with No. 19 Church Street, and by clear 1.1m glazing on its southern side, which is bounded by a public laneway (New Lane). It should be noted that whilst the written appeal submission states that the glazing on the north side is 1.5m in height, the drawings submitted with the appeal denote a height of 1.6m.
- 7.4.4. The Appellant states that the screening on the terrace's northern side restricts any overlooking of the adjoining site. However, during a site inspection, it was clear that the external staircase – used for accessing the roof deck – does not have any such privacy screening. Any person, therefore, using the stairs would have a direct overhead view into the rear garden associated with No. 19.
- 7.4.5. To address this the Appellant has proposed, in their appeal submission, that the existing glass panels, which provide screening along the northern side of the roof

deck, could be extended to run alongside the stairs also. The glazing would be obscured and have an opaque finish [Refer to Drwg. 717-ABP-101]. In a case where retention permission is granted, the Applicant has invited the Board to apply a condition that requires the installation of such screening along the staircase on its northern side.

- 7.4.6. I appreciate the Applicant has attempted to resolve the issue of overlooking. However, I do not accept that the mitigation measure proposed would sufficiently address the adverse and material diminishment of residential amenity that is caused by the presence of the terrace and staircase. In my opinion, there would still be a significant amenity impact caused by way of actual, and perceived, overlooking of the rear garden associated with No. 19, regardless of whether additional screening is erected along the boundary wall or not. The glazing is obscured, and offers a hazy transparency only, which is not the same as being fully opaque or non-transparent. The presence of people using the roof deck would still, therefore, be perceptible to those using the garden of No. 19 Church Street.
- 7.4.7. Furthermore, from viewing the photographs contained in the appeal submission, particularly Figures 4 and 6, it appears that it would be possible for someone of average height to look over the existing privacy screen (1.6m) and directly into the garden of No. 19.
- 7.4.8. I also consider that, when viewed from the adjoining property (No. 19), the terrace and staircase would be visually overbearing, as it is substantially above ground floor level, at approximately 2.9 metres. The additional height due to the installation of the existing 1.6m high panels on the deck, and potential further panels added along the boundary wall to prevent views from the staircase, would significantly increase the visual and overbearing impact caused by the proposed development.
- 7.4.9. In summary, I considered that the existing first floor terrace and staircase seriously injures the amenities of property in the vicinity and is contrary to the proper planning and sustainable development of the area. I do not accept that the proposed additional privacy screening along the staircase would be sufficient to overcome the adverse visual and residential amenity impact caused by development.

7.5. Architectural Conservation Area (New Issue)

- 7.5.1. I also have concerns with the scale, form and prominent setting of the roof top terrace and external access stairs when viewed from the wider, surrounding area. The location of the site at the end of a terrace, with a public laneway running along the full length of the site's southern boundary, means that the rear part of the site – where the terrace and staircase are situated – is visible and open to public view.
- 7.5.2. When observed from the laneway, the structures do not sit comfortably within the site's receiving context and are visually very prominent. I note that there does not appear to be any other similar forms of large first-floor terraces or roof decks in the vicinity of the site, and which is within an Architectural Conservation Area (ACA).
- 7.5.3. Given the visual prominence of the site, and its location within an ACA, I do not consider that the terrace and staircase are appropriate in this location. The works are a visually obtrusive and overdominant form of development, which are harmful to the surrounding vicinity, in my view, and do not respect the character and form of the existing building.
- 7.5.4. The retention of the terrace and balcony would not, therefore, be in accordance with Section 10.41 of the Dungarvan Town Development Plan 2012-2018, which seeks to ensure that any modifications, alterations, or extensions affecting a structure within an ACA, are sited and designed appropriately, or Section 7.8 of Variation 1 of the Development Plan.

7.6. Appropriate Assessment

Having regard to the nature and scale of the proposed development, which is for works to an existing dwelling in an established urban and serviced area, and 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

I recommend that the Board consider the appeal in the context of section 139 of the *Planning & Development Act 2000* (as amended). It is recommended that Conditions 1(b) and (c), as set down by the Planning Authority, be attached, for the reasons and considerations hereunder.

9.0 Reasons and Considerations

Having regard to Section 7.8 of Variation 1 of the *Waterford County Development Plan 2011-2017 (as extended and varied)*, which seeks to ensure that the design and layout of extensions to houses should have regard to the amenities of adjoining properties, and to the nature, scale, design and location of the proposed development, which is not consistent with the character and form of the existing building, it is considered that the retention of the first floor terrace and external staircase would seriously injure the residential amenities of property in the vicinity, particularly No. 19 Church Street, by way of overlooking, loss of privacy and visual intrusion; and having regard to Section 10.41 of the *Dungarvan Town Development Plan 2012-2018 (as extended and varied)*, which seeks to ensure that any modifications, alterations, or extensions affecting a structure within an ACA, are sited and designed appropriately, and that it would have an adverse impact on the character and setting of the area, the inclusion of Conditions 1(b) and (c) is considered to be in accordance with the proper planning and sustainable development of the area.

Ian Boyle
Planning Inspector

2nd November 2021