



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311395-21

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<b>Development</b>	Demolition works and construction of two-story extension.
<b>Location</b>	The Fairgreen, Westport, Co. Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	21691
<b>Applicant(s)</b>	Breta Johnston.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Charles O Malley.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	8 <sup>th</sup> February 2022.
<b>Inspector</b>	Bríd Maxwell

## 1.0 Site Location and Description

1.1. This appeal relates to the site of an established terraced dwellinghouse located at Fairgreen Westport. The site has a stated area of 0.02 hectares and is occupied by an existing two storey terraced dwelling. The site is an elongated rectangular shape extending southwards and backing onto Chestnut Grove. The dwelling has an existing single storey extension to the rear. Adjoining dwellings have extensions of varied design and scale. The adjoining property to the east (owned by the third party appellant) has a substantial two storey extension to the rear which includes a second floor window on the party boundary overlooking the rear garden of the appeal dwelling site and which opens outwards into the appeal site.

## 2.0 Proposed Development

2.1. The proposal involves permission for a part two-storey part single storey extension to the rear of the existing dwelling of 55.11m<sup>2</sup>. The proposed extension provides a new dining, kitchen, pantry and utility room and WC at ground floor level and a bedroom at first floor level. It is proposed to provide a balcony and outdoor seating area accessed from the first floor bedroom over the flat roofed element of the proposed extension.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 19<sup>th</sup> August 2021 Mayo County Council issued notification of the decision to grant permission and four conditions were attached including condition 2 requiring omission of the balcony.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Planner's report considers the design to be acceptable save for the inclusion of a balcony area for which there is no precedent. Permission was recommended subject to conditions as per subsequent decision.

### 3.2.2. Other Technical Reports

Municipal Architect's report considers the report to be acceptable. Balcony could reduce privacy of neighbouring property.

### 3.3. Prescribed Bodies

No submissions

### 3.4. Third Party Observations

Submission from Charles O Malley, 15 Kiln, James Street, Westport, owner of the adjoining terraced house to the east. A long established window on the west side of the observer's rear extension would be negatively affected. Right to light should be taken into account.

## 4.0 Planning History

No planning history on the appeal site.

Adjoining site to the west - 17/194 Permission granted to demolish existing habitable house and extend and renovate existing dwellinghouse together with all ancillary site works. Granted on 12/1/2017. Not implemented to date.

## 5.0 Policy Context

### 5.1. Development Plan

The Westport Town and Environs Plan 2010-2016 as extended refers. The site is zoned B Town centre. The objective is to provide for an improve commercial and other town centre activities and to preserve and enhance the civic and town centre character of the town.

The site is also within the Town Centre Architectural Conservation Area.

Westport Town & Environs Development Plan 2010-2016 remains the statutory Plan for this area. Within the Development Plan the appeal site is zoned 'Residential Phase 1 (A1 - High Density)', which has a stated land-use zoning objective 'to protect, improve and develop residential areas and to provide for facilities and amenities incidental to those residential areas, where appropriate'.

Section 4 of the Development Plan includes policies and objectives, the following of which are of relevance to this appeal:

HO-02 – 'to protect, improve and develop residential areas and to provide for facilities and amenities incidental to those residential areas';

TP-01 – 'to maintain, conserve and protect the architectural quality, character and scale of the town';

TO-12 It is an objective of the Council to encourage a high standard of architectural design and layout in all developments.

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## **5.2. Natural Heritage Designations**

The site is not within a designated area. The nearest such site the Clew Bay Complex SAC occurs within 2km to the west.

## **5.3. EIA Screening**

The development is not of a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). Accordingly, I am satisfied that EIA or EIA screening is not required in this case.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Grady Architects, on behalf of Mr Charles O Malley, 15 Kiln, James Street, Westport. Grounds of appeal are summarised as follows:

- Appellant is owner of the adjoining dwelling to the east
- No objection in principle. Concern arises regarding impact on the first floor west facing window
- The external wall of bedroom 02 in the proposed development is substantially blocking the appellant's first floor bedroom window.
- The location of the first floor window in the appellant's site is not accurately depicted on the planning application drawings. Accurate survey is provided in Appendix E.
- Planning application drawings indicate that the window is to be blocked up which is without agreement or consent.
- Propsoal will have a negative impact on residential amenity and result in devaluation of property.
- Alternative design should be explored. Examples provided in appendix G.
- Proposed balcony feature is not appropriate and would give rise to overlooking.

### 6.2. Applicant Response

6.2.1 The response submission by Paul Roddy, Architectural Technologist on behalf of the first party is summarised as follows:

- Window referred in the appeal is situated in a party structure and for which there was no agreement.
- Requirements for light ventilation and rescue in the event of fire should be met within the confines of the appellant's property.
- Window is unauthorised development and devalues the appeal site.

- Insertion of a window in a party structure is not exempted development and there is no evidence of permission for this window.
- Regarding location of the window as the applicant did not have access to the property the exact location could not be obtained.
- The flat roof overhead the bedroom would facilitate the construction of a rooflight.

### 6.3. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

## 7.0 **Assessment**

- 7.1 The issue arising in this appeal relates to the acceptability of the proposed development in light of first floor window on the side elevation of the two storey property to the east which is constructed on the party boundary overlooking and opening out into the appeal site. Given the established residential use and zoning objective pertaining the principle of development of an extension intended to enhance and improve the level of residential accommodation on the site is acceptable in principle. Regarding the scale of the proposed extension, it is my view the site is sufficiently large to accommodate the extension proposed. The proposal is not in my view out of character and I consider it to be reasonable in the context of the site.
- 7.2 As regards the impact on the existing window on the party boundary the third party appellant contends that the right to light and ventilation should be protected. The third party also asserts that the depiction of the window on the submitted plans is inaccurate and that there is no agreement with regard to removal of the window. The first party asserts that this window is unauthorised development and impacts negatively on the appeal dwelling site. It is asserted that the light and ventilation and

escape requirements for the appellant's dwelling should be achieved within the confines of the appeal site.

- 7.3 Having considered the matter I am inclined to concur with the first party that it would be unreasonable to restrict development on the appeal site on the basis of the location of the window for which there is no record of planning permission, particularly having regard to the narrow site configuration. I consider that given the location of the window on the party boundary the resolution of this issue is a civil matter. In terms of the planning merits of the proposed development I consider that the proposed extension is reasonable. As regards the proposed balcony I concur with the planning authority that the omission of this element is appropriate in the interest of protecting the residential amenity of the adjoining properties.
- 7.4 As regards Appropriate Assessment having regard to the nature and scale of the proposed development and the nature of the receiving environment, and proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not 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 have read the submissions on the file, visited the site and had due regard to the development plan and all other matters arising. I recommend that the Board uphold the decision of the planning authority and grant permission subject to the following conditions.

## **9.0 Reasons and Considerations**

Having regard to the location of the site and pattern of development in the area, it is considered that the proposal would be compatible with the visual and residential amenities of the area and would not impact unduly on the residential amenities of adjacent properties. No appropriate assessment issues would arise. The proposal

would thus accord with the proper planning and sustainable development of the area.

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and 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 proposed development shall be amended as follows:

- (a) The proposed balcony for upper floor rear elevation shall be omitted. Doorway from upper floor bedroom shall be replaced with a window.

Revised drawings showing compliance with this requirement shall be submitted and agreed in writing, with the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

3. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

4. 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.

Reason: In the interest of public health.



5. Site development and building works shall be carried out only between 0700 hours and 1800 hours Mondays to Fridays, between 0800 hours and 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.

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall be prepared in accordance with “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects,” published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

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Bríd Maxwell  
Planning Inspector

30 May 2022