



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311456-21

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<b>Development</b>	Single storey extension to both side & front and dormer conversion.
<b>Location</b>	8 Priory Avenue , Landsend Abbeyside, Dungarvan Co Waterford
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	21418
<b>Applicant(s)</b>	Nicola and Paschal Phelan
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Colm and Caroline Whelan Mary Mc Loughlin and John Mc Grath
<b>Date of Site Inspection</b>	5 <sup>th</sup> of May 2022.
<b>Inspector</b>	Stephanie Farrington

## 1.0 Site Location and Description

1.1. The appeal site is located at no. 8 Priory Avenue, Landsend, Abbeyside in Dungarvan c 1.7km east of Dungarvan town centre. The site has a stated area of 0.048ha and fronts onto Priory Avenue to the south. The site is occupied by a single storey detached dwelling. The existing dwelling on site is 160 sq.m. and has a ridge height of 4.7m over ground level.

## 2.0 Proposed Development

2.1. The proposed development comprises a single storey extension to the front and side of the existing dwelling and dormer conversion. The development includes two ground floor extensions and a dormer extension with a combined area of 141 sq.m. (front extension 20 sq.m., side extension 17 sq.m. and first floor extension 105 sq.m.). It is proposed to increase the ridge height to 6.4m over ground level.

## 3.0 Planning Authority Decision

### 3.1. Decision

Waterford City and County Council issued a notification of decision to grant permission for the proposed development subject to 12 no. conditions. The following conditions are of note:

- Condition no. 3: The lower 2 no. velux roof light type windows serving the master bedroom on the eastern roof plan shall be top hung only and shall be indefinitely glazed with opaque glass.

Reason: In the interest of protection of adjoining residential amenities.

- Condition 8: All bathroom windows permitted herein shall be glazed in opaque glass.

Reason: In the interests of privacy and amenity of occupiers of adjacent houses.

- Condition no. 12: The proposed extensions shall be used for domestic purposes incidental to the use of the dwelling and shall not be used for any commercial purpose attracting visiting members of the public to the property.

Reason: In the interest of residential amenity.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

#### Initial Report

The initial planner's report recommends a request for further information. The following provides a summary of the key points raised.

- The report refers to dwellings to the west and south-east which accommodate dormer extensions.
- The single storey extension to the front has regard and takes reference from the front wall/building line of no. 7. The proposed side extension has regard to the rear wall/building line of no. 8 to the east. These elements of the proposal do not give rise to concerns relating to overlooking or overshadowing and would not detract from the visual or residential amenities of the area.
- Two dormer windows are provided on the eastern roof pane. While the window to the south would not overlook any private amenity space the dormer to the west has the potential to overlook private amenity space to the rear of no. 9. Revised proposals are recommended to address this concern.
- No concerns regarding overshadowing of adjoining properties arise as a result of the proposed development.
- The proposal does not reduce private open space to the rear of the property or the available parking on site.
- The use of the pilates studio should be subject to clarification.
- The report recommends a request for further information in relation to clarification of the use of the pilates studio and revised drawings which address overlooking of the private open space to the rear of no. 9 Priory Avenue.

### Planners Report on Further Information

- The applicants have addressed the points raised within the FI request. Revised drawings have been submitted which address overlooking. Clarification has been provided that the pilates studio shall be reserved for private use.
- A grant of permission is recommended subject to conditions.

#### 3.2.2. Other Technical Reports

None.

#### 3.3. Prescribed Bodies

None.

#### 3.4. Third Party Observations

2 no. submissions were received during the initial statutory public consultation period. The following provides a summary of the points raised:

- Design, Height and Layout: The extension would breach the established building line and building heights in the area. The development is out of scale with existing residential properties and would set an undesirable precedent.
- Impact on Residential Amenity: Overlooking of property to the east. Overshadowing of adjacent properties. The development would devalue adjacent properties.
- Validation Issues: It is stated that there are discrepancies in the application drawings. The site notice was not erected until the 21<sup>st</sup> of May.
- Content and Scope of the Application: Lack of shadow analysis and 3D's. Proposed Use: Pilates studio is a commercial enterprise
- Traffic: Parking congestion is an issue in the area.

The applicant's further information response was deemed significant and readvertised. The following provides a summary of points raised within the submissions on the FI response.

- The proposed revisions do not address concerns relating to overlooking. Opaque windows can be replaced or window can be left open resulting in overlooking. The dormer to the front will overlook front gardens of adjoining properties.
- Concerns relating to the use of the pilates studio have not been addressed.
- The proposal is unsuitable and will negatively impact on the amenities of the area.
- The applicants made a submission clarifying that the use of the pilates studio is for personal use only and providing photographs of pilates equipment.

## 4.0 Planning History

4.1. The following planning history relates to the site.

- PA Ref: 88/50081- Planning permission in January 1989 granted for construction of a bungalow at 8 Priory Avenue.
- PA Ref: 89/510029 – Permission granted in July 1989 for retention of window.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The site is located within the administrative boundary of Waterford City and County Council. The operative Plan for the area is the Dungarvan Town Development Plan 2012-2018 (as extended and varied).
- 5.1.2. The site is zoned for Residential-Medium purposes within the Dungarvan Town Development Plan with an objective: *“To protect the amenity of existing residential development and to provide for new residential development at a medium density”*. Dwelling is listed as a permitted use under this zoning objective.
- 5.1.3. Table 10.6 sets out minimum private amenity space standards for houses. This sets out a requirement of 120 sq.m. for semi-detached dwelling.
- 5.1.4. Section 10.22 of the Development Plan relates to extension. This outlines that *“the Council shall only look favourably on extensions that respect the scale and character*

*of the existing structure, and that afford protection to the existing residential amenity of the area”.*

#### *Variation no. 1 – House Extensions*

5.1.5. Variation no. 1 of the Dungarvan Town Development Plan was adopted in September 2016 and relates to Development Management Standards. Section 7.8 of Variation no.1 of the Waterford County Development Plan outlines 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.*

*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. Given the high rainfall in Waterford the traditional ridged roof is likely to cause fewer maintenance problems in the future than flat ones. High quality mono-pitch and flat-roof solutions will be considered appropriate providing they are of a high standard and employ appropriate detailing and materials.*

## **5.2. Natural Heritage Designations**

The following designated sites are located within the vicinity of the site.

- Dungarvan Harbour SPA – 0.04Km
- Dungarvan Harbour PNHA – 0.04Km
- Glendine Woods SAC-2.6Km
- Helvic Head SAC-5.5km
- Helvic to Ballyquin SPA – 5.5km
- Mid Waterford Coast SPA-6.1km

- Blackwater River SAC-7.4km
- Comeragh Mountains SAC-9.4km

### 5.3. EIA Screening

Having regard to the planning history of the site, the brownfield nature of the subject site, together with the scale of the proposed development, 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

2 no. third party appeals have been submitted in respect of the notification of decision of Waterford City and County Council to grant permission for the development from adjoining residents. The following provides a summary of the main grounds of appeal:

#### Mary Mc Loughlin and John Mc Grath- no. 6 Priory Avenue

- The proposed extension to the front would breach the established building line on Priory Avenue. It would be out of character with the existing pattern of development along the road and set a precedent for future similar development.
- The proposed extension would remove a view enjoyed by no. 6 since 1988. Blocking the sea view would reduce the value of existing properties.
- Concerns are raised in relation to the visual impact of the proposed extension and its impact on the character and setting of the area. In this regard it is stated that the proposal presents a blank curved privacy when viewed from the adjoining streetscape.
- The appeal outlines that the negative impact of the development could be lessened through the omission of the front extension element of the extension and maintenance of the existing building line. This revision would maintain

the character of the cul de sac and maintain the sea view from adjoining residential properties.

Colm and Caroline Whelan – no. 9 Priory Avenue

- The appeal is signed by a number of residents in the area.
- Waterford City and County Council granted permission for the development without having due regard to a number of fundamental planning issues raised within the observations on the application.
- The contents of the Dungarvan Town Development Plan and the Draft Waterford City and County Development Plan 2022-2028 were not consulted or given adequate consideration. The proposed development would be in conflict with contents of these plans.
- The development would breach the established building line and established height limitations established within the area.
- The proposed two storey dwelling within a row of single storey bungalows would be visually dominant in scale and size.
- The development would result in overlooking and loss of privacy for adjoining residential properties. This is contrary to Development Plan policy which seeks to eliminate overlooking or overshadowing of adjoining property.
- The dormer windows will overlook the front bedrooms of no. 9 Priory Avenue and rooflights will overlook the rear garden of no. 9 and no. 10 Finnesterre Lawns. The revisions to the drawings made in response to the FI request do not eliminate these concerns. The rooflight can be opened and the opaque glass can be replaced with clear glass.
- While the redevelopment would afford the applicants panoramic view of Dungarvan Bay it would be to the detriment of the view enjoyed by existing properties.
- Concerns are raised in relation to the potential for the operation of a commercial enterprise from pilates studio. Such concerns are raised having regard to the size of the room, separate entrance and the labelling as a pilates studio within the application drawings. The use would lead to serious traffic



issues and create a precedent for further unsuitable developments in the area.

- The development contravenes conditions attached by Waterford County Council to maintain the character of the area.
- The planning history of the site was not considered by the planning history. Permission was refused for increase in the roof ridge under PA Ref: 88/510081.
- The proposal is contrary to development plan policy which seeks to respect the scale and character of the existing property and afford protection to the residential amenity of the area. The PA has failed to consider the detrimental impact of the extension and scale and character of the existing structure and the detrimental impact that the extension would have on the existing residential amenity of the area.
- The Board is requested to overturn the decision of Waterford City and County Council to grant permission.

## 6.2. Applicant Response

The applicant provided a response to the 3<sup>rd</sup> party appeals. The following provides a summary of the points raised:

- The development has been designed in light of guidance set out within the Dungarvan Town and Waterford City and County Development Plans.
- The proposed development will not diminish but add to the aesthetic of the street. The front extension is in keeping with the building line set by no. 7 Priory Avenue. The side extension takes reference from the building line of no. 9 to the east.
- In terms of building height reference is made to the property opposite the site "Bella Vista" where first floor accommodation has been created within the roof space.

- The development has been designed to ensure privacy of the residents and of the adjoining property owners is maintained. Revisions to the windows were made in response to the request for further information.
- The proposal does not comprise a “large two storey dwelling”. The development proposes a dormer bungalow with attic conversion which will modernise the property.
- The extension has been designed to avail of the sun, views and privacy available to it. The proposal takes reference from the adjoining properties and will have minimal impact within the existing street context.
- The proposed studio is for personal use only and is not a commercial enterprise.
- Priory Avenue has grown and developed to accommodate the needs of its residents. The appeal response makes reference to a number of examples where ridge heights have been increased. The proposed ridge height at 6.25m is modest and will not overshadow or overlook any properties.

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

None.

## 7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the third-party appeal, I consider that the main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Design, Layout and Visual Impact
- Impact on Residential Amenity
- Appropriate Assessment

## 7.2. Principle of Development

- 7.2.1. The relevant development plan is the Dungarvan Town Development Plan 2012-2018 (as varied and extended). The subject site is zoned Residential – Medium Density with an objective “*to protect the amenity of existing residential development and to provide for new residential development at medium density*”. Dwelling is listed as a use which is permitted under this zoning objective. The proposal seeks the extension of an established residential property. I consider the development is in keeping zoning objective for the area and is acceptable in principle subject to consideration of the amenity of existing residential development.
- 7.2.2. The appeals outline that the proposal is contrary to provisions of the Dungarvan Town Development Plan and the Draft Waterford City and County Development Plan 2022-2028 as they relate to domestic extensions. At the outset I note that the Dungarvan Town Development Plan 2012-2018 (as extended and varied) is the relevant plan. The provisions identified by the appellant relate to impact of proposed extensions on the character and setting of the area and impact on residential amenity. I consider these in further sections of the report.

## 7.3. Design, Layout, Height and Visual Impact

- 7.3.1. The appeals raise concern in relation to the design, layout and height of the proposal and its visual impact on the adjoining streetscape. At the outset, I note that the appeal outlines that the proposal which includes variations to the established building line and increase in height of the property would contravene the parent permission. However, in this regard I would note that the applicant is seeking permission for extension to the premises and this development will be assessed on its individual merits.

### Design and Layout

- 7.3.2. The proposed development comprises a single storey extension to the front and side of the existing dwelling and dormer conversion. The development includes two ground floor extensions and a dormer extension with a combined area of 141 sq.m. (front extension 20 sq.m., side extension 16 sq.m. and first floor extension 105 sq.m.). No reduction in existing private open space is proposed to the rear.

- 7.3.3. The appeals raise concern in relation to the proposed 20 sq.m. front extension and its impact on the established building line on the street. It is stated that all houses follow a clear building line set back from the road and the proposal represents a deviation to the symmetry of the streetscape. The appeals further outline that the front extension presents a blank curved wall to Priory Avenue and will detract from the visual amenity of the area.
- 7.3.4. On review of the application drawings, I note that the proposed single storey extension to the front has regard to the building line of no. 7 to the west and the extension maintains a set back from Priory Avenue to the south. I also note that the side extension takes reference from the building line of no. 9 to the east. I do not consider that the proposal will negatively impact on the existing building line of Priory Avenue in this regard.
- 7.3.5. In design terms, I note that there is no uniformity in design of individual properties along Priory Avenue. The proposed materials for the extension reflect that of the existing house and I do not consider that these will detract from the visual amenities of the area. The proposed ground floor plan illustrates a window opening to the south which fronts onto Priory Avenue (Drawing no. 2111P-05) and in this regard the extension does not present a blank elevation to Priory Avenue.

#### Height

- 7.3.6. The existing dwelling on site has a ridge height of 4.7m over ground level. It is proposed to increase the ridge height to 6.4m over ground level to accommodate first floor accommodation. The appellant's raise concern in relation to the proposed increase in height of the property. It is stated that the extension will result in the creation of a two-storey dwelling adjacent to bungalows.
- 7.3.7. At the outset I note that the development proposes a dormer bungalow with attic conversion. On-site inspection I note that there are variations in ridge heights and existing dwellings with dormer accommodation within the immediate vicinity of the site (to the west and south-east). This point is noted within the applicant's response to the grounds of appeal and within the planner's report which informs the decision of WCCC to grant permission for the development. In this regard I note that a uniform height is not provided within the vicinity of the site. I do not consider that the proposed

increase in height of the structure would be visually dominant within the streetscape or would detrimentally impact on the character and setting of the cul de sac.

### Conclusion

- 7.3.8. In conclusion, I consider that the design, layout and height of the proposal is acceptable and do not consider that the proposal would result in a negative visual impact on the character and setting of the area.

### **7.4. Impact on Residential Amenity**

- 7.4.1. Concerns relating to impact on residential amenity and devaluation of property are raised within the third-party appeals. The appeals outline that the proposal will impact on views from existing dwellings to the west of the site and the development will result in overlooking and loss of privacy to existing properties to the north and east.
- 7.4.2. I refer to the requirements of Section 7.8 of the Variation no. 1 of the Dungarvan Town Development Plan 2012-2018 which outlines 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. I consider the points raised in turn as follows.

### Overlooking/ Loss of Privacy

- 7.4.3. The appeals outline that the proposed extension will result in overlooking and loss of privacy of properties at no. 9 Priory Avenue to the east of the dwelling and no. 10 Finnesterre Lawns to the north. The issue of overlooking of the private amenity space associated with no. 9 Priory Avenue was raised within WCCC's request for further information. Revised drawings were submitted which omitted a dormer window on the eastern roof pane and provided 4 no. velux windows in its place. The proposed lower 2 windows include opaque glazing to negate against overlooking. I consider that the amendments to the design of the dwelling address concerns relating to overlooking of the amenity space associated with no. 9.
- 7.4.4. The appeal from the occupier of no. 9 Priory Avenue outlines that the revisions to the drawings made in response to the FI request do not eliminate their concerns relating to overlooking concerns. It is stated that the rooflight can be opened and the opaque glass can be replaced with clear glass.

- 7.4.5. In this regard I refer to the requirements of Condition no. 3 of WCCC's notification of decision to grant permission for the development which specifies that the lower 2 no. velux roof light type windows serving the master bedroom on the eastern roof plan shall be top hung only and shall be indefinitely glazed with opaque glass. I consider that this condition addresses any concerns relating to overlooking of private amenity space associated with no. 9 Priory Avenue.
- 7.4.6. The appellants also raise concern in relation to potential overlooking of the front windows of no. 9 Priory Avenue. However, I consider that the proposal has been designed to negate against overlooking.
- 7.4.7. In terms of impact on no.10 Finnesterre Lawns to the north, I note that proposed dormer extension includes only one window opening along the northern elevation associated with an en-suite bathroom. I consider limited potential for overlooking to the properties to the north. I recommend that all bathroom windows within the development are glazed with opaque glass.

#### Overshadowing

- 7.4.8. I refer to the guidance set out within Section 7.8 of the Dungarvan Town Development Plan which outlines that development should have regard to adjoining residential amenities including sunlight and daylight. Having regard to the north south orientation of the site and the single storey nature of the proposed extensions to the front and east I do not envisage overshadowing of adjacent properties as a result of the development.

#### Loss of View/ Devaluation of Properties

- 7.4.9. The appeal from the residents of no. 6 Priory Avenue outline that the proposal will result in a loss of view of Dungarvan Bay enjoyed by existing residents to the west of the appeal site since the 1980's. It is stated that this will result in a devaluation of property values within the area. The appeal outlines that the omission of the proposed front extension would address concerns in this regard.
- 7.4.10. At the outset, I note that the site is not subject to a protected view or landscape designation. The protection of a view is not a material planning consideration. The proposed extension to the front reflects the building line of no. 7, the adjoining dwelling to the west. I see no justification to omit the proposed front extension on this

basis. Having regard to the assessment carried out above I see no evidence to substantiate the claim that the proposal will lead to a devaluation of properties in the area.

### Conclusion

- 7.4.11. Having regard to the above reasons and considerations, I do not consider that the proposal represents a scale or format of development which would detrimentally impact on the residential amenity of adjoining properties. I consider that the development is acceptable from a residential amenity perspective and would not undermine the residential amenity of adjoining owners by reason of overlooking, overshadowing or result in devaluation of properties in the area.

## 7.5. Other Issues

### Proposed Use

- 7.5.1. The appeals on the application raise concern in relation to the proposed use of the pilates studio for commercial purposes and associated traffic impact. This use of the studio was raised by WCCC within the request for further information. The applicant clarified that the studio is not for commercial purposes.
- 7.5.2. The applicant provides a justification for the proposed studio i.e., to accommodate large equipment for personal use. I consider that sufficient clarification has been provided in this regard. The restriction on the use of the development to residential purposes can be furthermore addressed by means of condition. I refer the Board to condition no. 12 of the notification of decision to grant permission for the development which restricts the use of the extension to domestic purposes only. I consider that the requirements of this condition are appropriate in the instance of a grant of permission.

## 7.6. Appropriate Assessment

The planner's report outlines the following:

*"Having regard to the location of the subject site and to the nature of the proposed development, and the intervening distance with the identified Natura 2000 sites, I consider that no appropriate assessment issues arise in this case. In my opinion the proposed development either individually or in combination with other plans or projects, would not be likely to have a significant effect on a Natura 2000 site".*

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment and separation distance from the nearest designated site, no appropriate assessment issues arise and it is considered that the proposed development would be unlikely to have a significant effect individually or in combination with other plans or projects on any European sites.

## 8.0 Recommendation

8.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Dungarvan Town Development Plan 2012-2018 (as varied and extended), to the location of the site in an established residential area, the zoning for residential purposes and to the nature, form, scale and design 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 or visual amenities of the area. 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 as amended by further plans and particulars received on the 27<sup>th</sup> of July 2021 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>
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2.	<p>The proposed extensions shall be used for domestic purposes incidental to the use of the dwelling and shall not be used for any commercial purpose attracting visiting members of the public to the property.</p> <p>Reason: In the interest of residential amenity.</p>
3.	<p>The lower 2 no. velux roof light type windows serving the master bedroom on the eastern roof plan shall be top hung only and shall be indefinitely glazed with opaque glass. All bathroom windows permitted herein shall be glazed in opaque glass.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of orderly development.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>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>
6.	<p>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</p>

	<p>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.</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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Stephanie Farrington  
Senior Planning Inspector

23<sup>rd</sup> of May 2022