



An
Bord
Pleanála

Inspector's Report ABP31856-21

Development

Retention for existing family flat measuring 73.57 sq.m. with main service connections to side of 31A Old Court Park, Bray, Co. Wicklow. A98 A6P7. Planning permission is then sought for the separation of the family flat and for the construction of an extension measuring 37.27 sq.m. onto the rear of the flat to form a separate dwelling house measuring 110.84 sq. m. with off street car parking, landscaping, erection of new site boundaries and ancillary works.

Location

31A Old Court Park, Bray, Co. Wicklow.

Planning Authority

Wicklow County Council.

Planning Authority Reg. Ref.

211037.

Applicant(s)

Elaine Nolan.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal	First Party.
Appellant(s)	Elaine Nolan.
Observer(s)	N/A.
Date of Site Inspection	04.05.2022.
Inspector	Mary Mac Mahon.

1.0 Site Location and Description

- 1.1. Oldcourt Park is centrally located in Bray and connects Killarney Road to Boghall Road. Oldcourt Park has been subject to road improvement works. To the south of the site, the carriageway of Oldcourt Park has been reduced to provide for one way circulation. This prevents the road from being used by non-residents as a short cut.
- 1.2. The site is located in a mature but eclectic area, which has been subject to redevelopment, infill development and backland development over time. Please note the numbering of units on the site layout plan. The site landholding is a backland development and consists of a bungalow that has been extended and subdivided over time. No. 31 and 31B fronts onto the main road. The neighbour to south has also developed a dwelling house in very close proximity to the party boundary, No. 30B. No. 32A is another backland dwelling house to the north of the subject site's driveway. A new estate has been developed to the north of the site (Castlelynn) and another to the south (Giltspur Wood). The single storey side of 100 Giltspur Road is in close proximity to the existing development.
- 1.3. The landholding provides for front and rear gardens, with hard landscaping to the north side. The vehicular access gate to the property is setback from the public road, to allow for vehicles to wait before entrance / egress from the site. The site is 0.0521 ha.

2.0 Proposed Development

- 2.1. The proposed development is to retain the existing single storey extensions on site as an independent dwelling, extend to the rear and provide for new porch at the front (37.27 square metres), provide for separate car parking and pedestrian entrance, and alterations to fenestration. The proposed dwelling unit would be 110.84 square metres in total, with three no. bedrooms. The existing dwelling house would be 126.2 square metres.

3.0 Planning Authority Decision

3.1. Decision

Refuse for one reason:

“Having regard to:

- (i) The size and irregular shape of the site, the existing dwelling and unauthorised family flat on site and the adjoining existing dwellings to the west and south;*
- (ii) The overall scale, design, layout and form of the proposed development;*
- (iii) The haphazard layout and substandard circulation areas;*
- (iv) The visibility of the development from neighbouring dwellings and*
- (v) The inadequate sightlines at the existing entrance;*

It is considered that the proposed development would be out of character with the existing residential area, would injure the visual amenities of the area, would have a significant overbearing impact when viewed from neighbouring properties would constitute an unacceptable haphazard and substandard development of the site and would result in a serious pedestrian and traffic hazard. The development would be contrary to the guidelines and objectives of the County Development Plan, in particular Objectives HD2, HD 9 and HD10 and would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Report

The planning report refers to the acceptability of the provision of an infill dwelling in principle on the site, subject to design and protection of existing residential amenities. It notes the proximity of the existing development to adjacent dwellings and limited external circulation areas. The proposed dwelling would be 4.71 metres to ridge height, and 17.3 metres in length. Given the height, length, scale and mass, it is considered that the proposed development would have a significant overbearing

impact on neighbouring properties, albeit with no loss of privacy. The proposed development would not significantly impact on the existing dwelling.

3.2.2. Other Technical Reports

Municipal District Engineer – questions whether the developments at 31B and 31A have complied with front property wall setbacks.

Irish Water – conditions.

4.0 Planning History

01/630164 – permission for a garage.

5.0 Policy and Context

5.1. National Planning Policy

Project Ireland 2040: National Planning Framework 2018

The first National Strategic Outcome expected of the National Planning Framework is compact growth. Effective densities and consolidation of urban areas is required to minimise urban sprawl and is a top priority. 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a).

National Policy Objective 35

Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2. Wicklow County Development Plan 2016-2022

In relation to zoning, the plan states:

“The priority for new residential development shall be in the designated ‘town’ and ‘village’ / ‘neighbourhood centres’ or ‘primary zone’ in settlements with development plans, or in the historic centre of large and small villages, through densification of the existing built up area, re-use of derelict or brownfield sites, infill and backland

development. In doing so, particular cognisance must be taken of respecting the existing built fabric and residential amenities enjoyed by existing residents, and maintaining existing parks and other open areas within settlements.”

HD2: New housing development, above all other criteria, shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

HD9: In areas zoned / designated ‘existing residential’, house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see Objective HD11 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

HD10 In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unserviced, low density housing areas become served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

5.3. *Bray Municipal District Local Area Plan 2018 – 2024* applies. The site is zoned RE – Existing Residential. The objective is to: *To protect, provide and improve residential amenities of existing residential areas.* The description is: *To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity.*

5.4. Page 26 of the written statement states:

“In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for

the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle. Lands zoned Residential – High Density will be expected to achieve a density of not less than 50 units / hectare.”

5.5. Natural Heritage Designations

Having regard to minor scale and the foreseeable emissions from the proposed development no Appropriate Assessment issues arise, and 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.

5.6. EIA Screening

5.7. Having regard to residential nature and minor scale of the proposed development, its location on a brownfield site in a built-up urban area where public water supply and public sewerage are available and in light of the foreseeable emissions therefrom it is possible to exclude the requirement for submission of an EIAR at a preliminary stage.

6.0 The Appeal

6.1. The First Party appeal has been submitted by BPS Planning & Development Consultants and includes photographs and revised drawings.

6.2. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The development is the only opportunity for the applicant to own home and it is located beside her parents;
- No objections have been raised by neighbours;

- National, regional, county and local policy support infill development;
- The proposed development is acceptable in principle in the zoning;
- Sight lines at the time of the application for the garage were acceptable;
- No. 30B overlooks the application site;
- No issues of overdevelopment arise as the site coverage is 20% and the plot ratio is 0.28, if the access lane is excluded. The site, excluding the laneway is circa 391 square metres, sufficient to provide for the proposed development and is larger than surrounding sites;
- The revised drawings provide for the reduction of the residential unit from three bedrooms to two bedrooms and other details, including landscaping;
- The area of the rear garden is stated to be over 55 square metres;
- There is limited impact on the existing dwelling, as recognised by the planner;
- Sight visibility lines can be addressed by way of condition;
- The dwelling is single storey and the design reflects its previous use and position on the site;
- No. 30B, which is a dormer dwelling, has been permitted tight to the site boundary;
- The proposed development will not overbear on neighbours, is not haphazard and will not give rise to traffic hazard;
- The development is not out of character with the area, which is robust, has very limited visibility and is similar in scale to the original dwelling house;
- Examples of precedent infill developments are provided.

6.3. Planning Authority Response

None received.

6.4. **Observations**

None received.

7.0 **Assessment**

- 7.1. The main planning issues in this appeal is the acceptability of the independent residential unit and its impact on surrounding development.
- 7.2. The use of the site for a dwelling unit is acceptable in principle. I would consider that the size of the site is sufficient to provide for private amenity space and car parking for the existing dwelling and an independent dwelling.
- 7.3. The area is unusual in the degree of backland and infill development that has occurred over time. Development in the area has been in part haphazard and has occurred very close to boundaries.
- 7.4. The position of the proposed independent unit is far from ideal. However, it arises from the conversion of existing building on site and the proposed extension is located in the only logical place. The profile of the proposed is low in height, with limited visibility in the wider area. Where it would be seen from, in Giltspur, it is similar in profile to the existing house on site.
- 7.5. In terms of impact on neighbouring units, given the scale of development currently present on site, I do not consider that the proposed development would be significantly exacerbate any existing injury to residential amenity.
- 7.6. In relation to traffic hazard, the existing entrance is authorised. I do not consider that the volume of traffic generated by the proposed development would give rise to a significant intensification of use than already arises.
- 7.7. While the conversion of the development to be retained and its extension would not be an exemplar for infill development, in my opinion, I do not consider that the degree of injury sufficient to warrant refusal of planning permission.
- 7.8. I note the drawings submitted on appeal but consider that the site is sufficiently large to cater for a three bedroom residential unit.

8.0 Recommendation

8.1. I recommend that planning permission be granted.

9.0 Reasons and Considerations

Having regard to the residential zoning of the site, the pattern of development in the area where back land development has been established and the size of the site, it is considered that the development proposed to be retained and the proposed extension, would not unduly injure the residential amenities of property in the vicinity. The proposed development would be acceptable in terms of traffic safety and public health and would therefore, not be contrary to the proper planning and sustainable development of the site.

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>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Surface water from the site shall not be permitted to drain onto the adjoining public road.</p>

	<p>Reason: In the interest of traffic safety.</p>
4.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.</p> <p>Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling.</p>
6.	<p>The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity.</p>
7.	<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. The contribution shall be paid prior to the</p>

	<p>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 the Board 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 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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Mary Mac Mahon
Planning Inspector

16th May 2022