



An
Bord
Pleanála

Inspector's Report

ABP-312418-22

Development	Retention of plan and elevation alterations to PA Ref: 20191254, permission for additional landscaping and screening works.
Location	Ballinacarrig, Courtown, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20211611
Applicant(s)	Deirdre and Paddy Morris.
Type of Application	Retention and Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party v's Refusal.
Appellant(s)	Deirdre and Paddy Morris.
Observer(s)	None.
Date of Site Inspection	23 rd of November 2022.
Inspector	Stephanie Farrington

1.0 Site Location and Description

1.1. The site is located in the townland of Ballinacarrig, Courtown, Co. Wexford. The site, which has a stated area of 0.2ha, is currently occupied by a dwelling accessed via the adjoining local road on Tara Hill to the north. The site is adjoined by existing dwellings to the east and west and undeveloped lands to the south.

2.0 Proposed Development

2.1. The proposed development seeks permission and retention of permission for alterations to the development permitted under PA Ref: 20191254. The development is described as follows within the public notices:

“Permission for retention of minor design alterations made during construction, as deviated from that which was granted under planning register no. 20191254 consisting of minor plan and elevation alterations and also for permission to complete additional landscape and screening works to within the site and to the boundaries with ancillary works”.

2.2. The application cover letter prepared by Molloy Architecture and Design Studio submitted in support of the application provides a description of and rationale for the design amendments for which retention is sought. The alterations are labelled to R1- R6 and cross referenced on Drawing no. DPMO1-PP02.01. These are summarised below:

- Item R1 – Privacy Wall and removal of External Balcony Stairs – Permission was granted for an open external stairs on the eastern facing elevation. The application documents outline that the privacy wall affords more privacy to the applicant and adjoining resident to the east and presents a safer option to the open stairway.
- Item R2- Increase in width of the east facing window opening from 1200mm to 1500mm to maximise an existing sea view.
- Item R3 – Removal of high-level glazing on the north-eastern elevation– The removal of this window and provision of 2 no. standard windows to the north elevation was incorporated as a cost saving measure.

- Item R4 – The omission of the utility and boot room - This was approved under PA Ref: 20191254 but has not been constructed to date. The cover letter outlines that it is the applicant’s hope to construct the boot room prior to the expiration of PA Ref: 20191254 in early 2025 but this cannot be ascertained at this time.
- Item R5 – The removal of lower-level corner glazing was incorporated as a cost saving measure.
- Item R6 – The inclusion of 2 no. window openings in lieu of the high-level glazing on the north-eastern elevation on the basis of a cost saving measure.

2.2.1. The proposed landscaping revisions are illustrated on the Landscape Plan Drawing no.CPL20.01 included within the Landscape Design Report. The landscaping proposals include “*Grasscrete or similar – greenway access to rear garden/septic tank maintenance*” to the east of the dwelling.

3.0 Planning Authority Decision

3.1. Decision

Wexford County Council issued a notification of decision to refuse permission for the development in accordance with the following reasons and considerations:

1. The development seeking retention and namely the additional balcony development and proposed grass-crete driveway are considered to present some seriously negative impacts on existing adjoining residential amenities due to the siting and proximity to the adjoining boundary. The developments seeking retention and proposed would therefore be seriously injurious to adjoining residential amenities and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner’s report recommends a refusal of permission in accordance with WCC’s decision. The following provides a summary of the key points raised:

- The balcony for which retention permission is sought overlooks the adjoining property to the east.
- The permitted eastern elevation did not include a balcony and had a smaller window opening on the eastern elevation. This window should be opaque glazing to prevent overlooking. The balcony and enlarged window impact on residential amenity by reason of overlooking.
- It is not considered appropriate to permit the changes on the basis of impact on residential amenity.
- The proposed grass crete driveway along the eastern site boundary will impact on the adjoining residential amenity.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

- 3.4.1. 1 no. submission was received during the statutory consultation period by BPS Planning and Development Consultants on behalf of an adjoining resident to the east Emmet O' Gorman. The main grounds of objection relates to impact on residential amenity. The following provides a summary of the key points raised within the submission:

- The application notices are misleading as no reference is made to the proposed "Grasscrete" driveway which is illustrated on the Landscaping Plan. It is considered that this will be used for parking vehicles and is in conflict with landscaping proposals along the eastern boundary. The access would result in negative noise and disturbance, light flicker and visual impacts on the observers dwelling. It is requested that this element of the proposal is refused.

- The applicant obtained planning permission for a 1.2m east facing first floor living space window. The subject application seeks retention for a 1.5m window at this location resulting in increased overlooking to the observer's private garden and resulting in loss of residential and visual amenity. It is requested that the window is reduced in width in accordance with the previous permission or obscure glazing is installed.
- The previously permitted glass Balustrade external stair is replaced by a block wall. The block wall impacts negatively on the visual amenities of setting of the observers' property.
- Concerns are raised in relation to the provision of a main access to the property along the eastern elevation and its impact on the residential amenity of the adjoining dwelling.
- The observation outlines that the (2 x 90cm) tall clear glazed windows provided on the northeast elevation in lieu of the previously permitted high level windows result in angled views into the observer's property.
- The proposal is contrary to Section 18.12.2 of the Wexford County Development Plan 2013-2019 which relates to "Siting and Design of One-off Rural Dwellings" which outlines that the siting of dwellings should "*avoid adverse impacts on neighbouring properties from overlooking and undue overshadowing and visual impacts*". The observation outlines that the development would impact negatively and permanently on the observer's property by way of overlooking, visual impacts, noise and disturbance, light flicker etc.
- The observation outlines that the development is contrary to Section 18.13.1 of the Wexford County Development Plan 2013-2019 which relates to "House Extensions" and outlines that "*the proposed extension should not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an overdominant visual impact*".
- The observation requests that permission is refused for the development on grounds of impact on residential and visual amenity of the adjoining property

and contrary to the guidance set out in Section 18.12.2 and 18.13.1 of the Wexford County Development Plan 2013-2019.

4.0 Planning History

The following planning history is of relevance:

- PA Ref: 20191254: Permission granted in December 2019 for retention of single storey extension to the rear of existing bungalow and extension to dwelling and permission for a split-level extension to the rear.

The planner's report refers to the following enforcement history:

- 0091/20201: Warning letter issued in respect of possible non-compliance with PA Ref: 20191254.

5.0 Policy Context

Wexford County Development Plan 2022-2028

- 5.1.1. The site is located within the administrative boundary of Wexford County Council. At the time of the assessment of the application, the Wexford County Development Plan 2013-2019 was the operative development plan for the area. The application was assessed by Wexford County Council in accordance with the policies and objectives of this plan.
- 5.1.2. The Wexford County Development Plan 2022-2028 was adopted on the 13th of June 2022 and the Plan came into effect on the 25th of July 2022. I have assessed the proposal in accordance with the provisions of the operative development plan.
- 5.1.3. The site is located within a rural area designated as being under Strong Urban Influence within Map 1 Rural Area Types. The Plan sets out the following definition of such areas:

“The Guidelines outline that these areas exhibit characteristics such as proximity to the immediate environs of or close commuting catchment of large cities and towns. There will be evidence of rapidly rising population and of considerable pressure for housing development due to proximity to the urban areas or to major transport

corridors with ready access to the urban area. There may also be evidence of pressures on infrastructures such as the local road network”.

5.1.4. Volume 2 of the County Development Plan sets out Development Management Objectives. The following Development Management Objectives are of relevance:

- Section 2.6 relates to Amenity. This outlines that all developments should be designed to protect the amenities of adjoining properties and properties in the vicinity.
- The Plan outlines the following in terms of overlooking:

“The siting, layout and design should also ensure that the development does not give rise to undue overlooking of properties in the vicinity, in particular, residential properties such as private residences, nursing / retirement /residential care homes, schools and childcare facilities. In general, a minimum distance of 22m between opposing above ground floor windows will be required for habitable rooms. In cases where an innovative design solution is proposed, this standard may be relaxed”.

- Section 3.1.1 sets out design guidance for single houses in rural areas. The following guidance is set out in relation to landscaping: *“The landscaping, garden design and boundary treatment should provide a link with the landscape and help assimilate the development into the landscape. Care should be taken to avoid suburban layouts and garden treatments in rural settings. Sites that have well established boundaries on all sides will help assimilate development. In general, a site should aim to have at least two existing boundaries. Existing trees and hedgerows should be retained to help integrate the dwelling into its surroundings. The extensive removal of hedgerows and trees has a negative visual impact and changes the character of the countryside. Complete removal of the existing hedgerows should be avoided. Where new boundaries are proposed, these should include a selection of indigenous and naturalised hedging plants. The construction of long stretches of solid walls or fences along the front boundary is not*

acceptable on rural sites (See Section 2.8.1). The extent of hard landscaping around a house should also be minimised”.

- Section 3.4 of the Plan relates to “Extensions to Dwelling Houses”. This outlines that appropriate extensions to existing dwelling houses will be considered subject to compliance with a number of criteria including the following:
 - The proposed extension must be of a scale and position on the site which would not be unduly incongruous with its context.
 - The design and external finishes of the extension need not necessarily replicate or imitate the design and finish of the existing dwelling.
 - Contemporary designs and finishes often represent a more architecturally honest approach to the extension of a property and can better achieve other objectives such as enhancing natural light. It should be noted that a different approach may apply in the case of a Protected Structure or within an Architectural Conservation Area.
 - The extension should not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact.
 - The extension should not impinge on the ability of adjoining properties to develop a similar extension.

5.2. Natural Heritage Designations

The nearest designated European sites to the appeal site, including SAC’s and Special Protection Areas (SPA’s) include the following:

- Slaney River Valley SAC -c. 8km to the west
- Kilpatrick Sandhills SAC and pNHA - c. 6km to the north-east
- Kilgorman River Marsh p NHA – c. 3.8km to the north-east

- Ballymoney Strand p NHA – c. 1.9km to the south-east
- Courtown Dunes and Glen p NHA– c.3.6km to the south-east

5.3. EIA Screening

Having regard to the nature and scale of the proposed development and nature of the receiving environment, 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

A first party appeal was submitted in respect of Wexford County Council's notification of decision to refuse permission. The following provides a summary of the grounds of appeal:

- The minor alterations proposed do not contravene the policies of the Wexford County Development Plan 2013-2019. WCC's decision does not include specific reference to any policies of the WCDP which the development would contravene.
- The increased window size on the eastern elevation will not result in additional overlooking to that previously permitted as a result of the walled walkway which screens views out of the window from an internal seated position.
- The proposal does not constitute over-dominant development, has no potential for overshadowing and following implementation of the landscaping plan will have no potential for overlooking of the objector's property.
- The development does not impinge on the ability of the adjoining property owner to construct a similar extension. Permission has been granted and implemented for a similar extension under PA Ref: 20170799. The objector's

dwelling is located closer to the shared boundary, incorporates split level and a balcony with large, glazed elements.

- The appeal questions why a split decision was not issued. The reason for refusal relates to the landscaping and alterations to the eastern elevation however no reference is made to other elements of the development including the side access door.
- The concerns of the WCC could have been addressed via the condition requesting the use of opaque glass and an opaque glass screen. An opaque glazing panel could have been placed on top of the existing wall.
- The proposed alterations do not increase the impact of the development on the visual amenities of the surrounding landscape.
- There are no directly opposing windows between the dwelling and objectors' property.
- The dwelling is located 6m from the shared boundary. The dwelling is detached and the provision of grass-crete does not constitute an unacceptable impact on the amenities of the adjoining dwelling. The appeal refers to the provisions of exempted development set out under Class 6 b (ii) Exempted Development General of the Planning and Development Regulations. The purpose of the grass crete is to facilitate maintenance vehicles access to the rear of the property specifically to service the waste-water treatment system. Maintenance of the treatment plan will require a single annual visit.
- The proposed works are minor in nature and the development is substantially compliant with the development permitted under PA Ref: 20191254.
- A justification for the walkway wall is provided. The applicant outlines that the wall is located 6m from the boundary of the objector's property (8m from the objectors dwelling) and frames an access walkway to the rear balcony. This is deemed to be a safer, more direct external access than to the balcony than 2 flights of stairs. It doesn't function as a balcony and does not increase the size or bulk of the elevation. The appeal outlines that the wall reduces potential for

overlooking. The appeal outlines that it has no impact on the objectors dwelling in terms of overbearing or overshadowing.

- The appeal outlines that extensive planting is proposed between the boundary of both properties and following the implementation of the landscaping proposals, it will not be possible for the objector to view the applicant's property.
- The proposal is fully in accordance with the policies and objectives of the Wexford County Development Plan and the principles of proper planning and sustainable development. The minor design alterations do not materially injure or negatively impact the neighbouring property's residential amenities. The design proposed has a significantly reduced potential for impact on the amenities of the adjoining property than that previously permitted.
- The concerns raised by WCC could be addressed by means of condition. Options for revised landscaping and revised landscaping and additional screen are submitted in support of the appeal.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, I consider that the main issues in this appeal are as follows:

- Procedural Issues
- Impact on Residential Amenity
- Design and Layout
- Appropriate Assessment

7.2. Procedural Issues

- 7.2.1. The site is located within the administrative boundary of Wexford County Council. At the time of the assessment of the application, the Wexford County Development Plan 2013-2019 was the operative development plan for the area. The application was assessed by Wexford County Council in accordance with the policies and objectives of this plan.
- 7.2.2. The Wexford County Development Plan 2022-2028 was adopted on the 13th of June 2022 and the Plan came into effect on the 25th of July 2022. I have assessed the proposal in accordance with the provisions of the operative development plan.

7.3. Impact on Residential Amenity

- 7.3.1. The proposed development seeks the following development at an existing residential dwelling at Ballinacarrig, Courtown, Wexford:
- permission to retain “minor plan and elevation alterations” to a previously permitted residential extension granted under PA Ref: 20191245.
 - permission to complete additional landscape and screening works.
- 7.3.2. I refer the Board to the detailed description of plan and elevation amendments illustrated in the application drawings, described in the application cover letter and summarised in Section 2 of this report.
- 7.3.3. Wexford County Council issued a notification of decision to refuse permission for the development in accordance with the following reasons and considerations:
- *“The development seeking retention and namely the additional balcony development and proposed grass-crete driveway are considered to present some seriously negative impacts on existing adjoining residential amenities due to the siting and proximity to the adjoining boundary. The developments seeking retention and proposed would therefore be seriously injurious to adjoining residential amenities and would therefore be contrary to the proper planning and sustainable development of the area”.*
- 7.3.4. Wexford County Council's reason for refusal relates to the impact of the proposed alterations on residential amenity. The planner's report which informs the decision of WCC to refuse permission raises concern in relation to overlooking of the adjoining

property to the east and proximity of the proposed grass crete to the shared eastern boundary. The planning authority's reason for refusal reflects some of the concerns set out within the observation on the application on behalf of the adjoining property owner to the east. Drawing no. DPM01-PP02.01 "Site Layout Plan" submitted in support of the appeal illustrates the relationship between the appeal site and the adjoining property to the east. The existing dwelling is set back a minimum of 6m from the eastern site boundary. The eastern site boundary is currently defined by a dense tree line.

- 7.3.5. Section 3.4 of the Wexford County Development Plan 2022-2028 sets out guidance for extensions to dwelling houses. This outlines that the extension should not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact. The impact of the development on the residential amenity of adjoining properties is a key consideration in assessing the application.

Additional Balcony Development

- 7.3.6. The planners report also raises concern in relation to the increase in width of window opening along the eastern elevation from 1200mm to 1500mm. This is identified as Item R2 within Drawing no. DPM01-PP02.01. However, I note that the principle of a window opening at this location was established under PA Ref: 20191254. I do not consider that the minimal increase in dimensions would result in an increase in overlooking over and above that previously permitted. I agree with the case made within the application cover letter that the proposed wall protects the privacy of both the applicant and adjoining property to the east. I consider that the provision of the privacy wall would reduce overlooking from the window opening.
- 7.3.7. I note that the observation on the application raises concern in relation to the visual impact of the proposed privacy wall. However, I consider that the design of the wall is in keeping with the overall design of the house. In this regard I do not consider that the wall would impact on the visual amenities of the adjoining residential property.
- 7.3.8. WCC's reason for refusal refers to the creation of a walkway/balcony along the eastern elevation in lieu of the previously permitted glass stairway (Item R1). The applicant provided a rationale for this revision on the basis of increased privacy for both the applicants and the adjoining residents to the east and it is stated that the

proposal creates safer access arrangements. The proposed walkway has a limited width of 0.7m approx. and in my view would not be conducive to use as a viewing point or result in undue overlooking of the adjoining property or associated private amenity space area to the east. However, I do note that there may be a perception of increased overlooking as a result of this element of the development.

7.3.9. In addressing the planning authority's reason for refusal, the appeal identifies 3 no. options further negate against overlooking including the following:

1. Do nothing Scenario – i.e approve the development as submitted to the planning authority.
2. Additional landscaping proposals (Drawing no. CPL 20.01 Rev A – Landscape Plan).
3. Additional Landscaping proposals (CPL 20.01 Rev A – Landscape Plan) and provision of an Opaque Glazing Privacy Screen to the Balcony (Illustrated on Photo Render no 1 and 2).

7.3.10. I have reviewed the options proposed and consider that the provision of additional landscaping along the eastern site boundary as illustrated on the revised Landscaping Plan (Drawing no. CPL 20.01 Rev A) submitted in conjunction with the appeal would be sufficient to address the concerns in relation to overlooking and impact on residential amenity raised within Wexford County Council's notification of decision to refuse permission for the development.

7.3.11. In conclusion, I do not consider that the enlarged window, revised access arrangements or provision of a privacy wall along the eastern elevation of the property results in undue overlooking or negative impacts on the visual or residential amenity of the adjoining property to the east. I consider that concerns in relation of overlooking are sufficiently addressed within the revised Landscaping Plan (Drawing no. CPL 20.01 Rev A).

Proposed Grass Crete Area

7.3.12. I note the reference within the WCC's reason for refusal to the proposed grasscrete area to the east of the application site and its potential impact on residential amenity. The Landscape Plan Drawing no. CPL-20.01 submitted in support of the planning application illustrates the provision of a grasscrete or similar -greenway access to the

rear garden/septic tank maintenance (approx. 3m wide). The observation on the application raises concern in relation to the use of this area as a through access and parking area in proximity to the shared boundary and noise and nuisance associated with same and the compatibility of the proposed grass crete paving with the eastern boundary landscaping.

7.3.13. I refer to the revised landscaping plan submitted in support of the appeal which includes additional landscaping along the eastern site boundary and omission of the proposed grasscrete access to accommodate same (Drawing no. CPL-20.02 Rev A Landscape Plan). I consider that the revised landscaping proposals including the provision of additional landscaping along the eastern site boundary and associated omission of the access would address the concerns raised within Wexford County Council's reason for refusal in terms of impact on the residential amenity of the adjoining property to the east.

7.4. Design and Layout

7.4.1. On review of the planning authority decision and the planner's report I note that the main area of concern underpinning the Council's refusal relates to the proposed amendments including additional balcony development and grass crete area. I have considered these elements of the proposal above.

7.4.2. As detailed within the first party appeal the development includes additional design and elevation revisions which are not detailed in the reason for refusal but which are described in the planning application cover letter and illustrated on Drawing no. DPMO1-PP02.01 including the following:

- Revisions to the width of window openings along the south-eastern elevation and omission of door along the south-eastern elevation (Item R5);
- Omission of high-level corner window on north-eastern elevation (Item R3) and construction of 2 no. 900mm windows along the north-east elevation (Item R6);
- Omission of previously approved utility/boot room (Item R4)
- Provision of access door along eastern elevation;

7.4.3. I note that the rationale for the revisions as detailed within the application cover letter primarily relate to cost saving measures. From my on-site observations I do not

consider that these elements detract from the visual or residential amenities of the area. I consider that these elements of the development are minor in nature and do not result in overlooking from the dwelling over and above that previously permitted. I furthermore note that concerns regarding these elements of the proposal were not raised by the planning authority.

- 7.4.4. I also note that the 3rd party observation on the original planning application raises concern in relation to overlooking from the 2 x 900mm windows on the north-eastern elevation. However, I do not consider that overlooking would arise having regard to the orientation of these windows relative to the adjoining property to the east, their distance from the shared boundary (over 10m) and the existing eastern boundary treatment.
- 7.4.5. I have considered the points raised within the observation on the application in relation to the creation of a revised entrance to the dwelling to the east and noise and nuisance associated with same. However, I note that the primary entrance to the property remains that established along the northern elevation. I furthermore note that the application relates to a domestic dwelling, and I do not consider that the provision of an additional entrance door would result in noise and nuisance over and above that existing within the area.
- 7.4.6. I consider that the proposals for the previously approved boot room are unclear within the application (Item R4). The application cover letter outlines that it is the intent of the applicant to implement this prior to the expiration of the parent permission in 2025 but the application also includes reference to its omission. I have no objection to either the implementation or omission of this element of the previously permitted development but consider the conflicting references in the application to be unclear. I consider that this point should be subject to clarification with the planning authority. This point can be addressed via condition.
- 7.4.7. Having regard to the above reasons and considerations, I recommend that permission is granted to retain the above elements of the development.

7.5. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, and the separation distances to the nearest European site 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.

8.0 Recommendation

I recommend a grant of permission in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development is in keeping with the character of the area and would not seriously injure the visual or residential amenities of the area or the amenities of properties 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.	<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>Landscaping proposals shall be in accordance with those set out within Landscape Plan prepared by Carragh Paving and Landscapes Drawing no. CPL-20.01 Rev A submitted in conjunction with the appeal on the 7th of January 2022.</p> <p>Reason: In the interest of residential amenity.</p>

3.	<p>Within 4 weeks of this decision, the applicant shall submit final floor plans and elevations of the development for written agreement of the planning authority which clearly illustrate final proposals for the boot room as permitted under PA Ref: 20191254.</p> <p>Reason: In the interest of clarity.</p>
4.	<p>Save for the amendments hereby permitted, the development shall otherwise comply with the terms and conditions of Reg. Ref. 20191254.</p> <p>Reason: In the interests of clarity.</p>

Stephanie Farrington
Planning Inspector

6th of December 2022