



An
Bord
Pleanála

Inspector's Report

ABP-312857-22

Development	Permission for alterations to existing dwelling consisting of (1) ground floor extension to front elevation (2) ground floor and first floor extension to rear elevation (3) proposed roof lights in front elevation (4) proposed new door to side elevation.
Location	Ballinatray Lower, Courtown, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20211851
Applicant(s)	Peter Lennon
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Ann Phelan
Observer(s)	None
Date of Site Inspection	20 th of December 2022
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The application site (c.0.1ha) is located in the townland of Ballintray Lower and is within the town centre of Courtown. The site is accessed by the R742. This is a semi-detached two storey dwelling located adjacent to the Garda Station. There is a mast to the rear of the Garda Station adjacent to the site. This is a long narrow site with a detached shed to the rear. The lands generally rise to the northwest (rear) and the siting of the shed is more elevated.
- 1.2. There is gated access to the driveway to the side of the property that leads to the shed and there is a gated side entrance to the rear garden area. This access route and the land at the rear which contains the large shed is shown within the application site boundaries. There is a fence along the side boundary with the adjoining two storey semi to the southwest. The oil tanks for both properties are on either side of the fence. The adjoining property has first floor rear windows in proximity to the boundary. There is a fence along the rear garden. Q Casino is located further to the southwest of the site and there is a lane along the side of this to a rear parking area. There are views of the site to be had from this access lane.

2.0 Proposed Development

Permission is sought for alterations to the existing dwelling consisting of the following:

- (1) Ground floor extension to front elevation
- (2) Ground floor and first floor extension to rear elevation
- (3) Proposed roof lights in front elevation
- (4) Proposed new door to side elevation

3.0 Planning Authority Decision

3.1. Decision

On the 28th of January 2022, Wexford County Council recommended a Split Decision i.e.: Part Grant and Part Refusal:

Permission granted subject to conditions for alterations to existing dwelling consisting of (1) ground floor extension to front elevation; (2) ground floor and first floor extension to rear elevation; (4) proposed new door to side elevation.

Condition nos. 2 and 7 are of note relevant to design elements. Condition no.6 relative to drainage.

Permission refused for alterations to existing dwelling consisting of (3) proposed roof lights in front elevation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report had regard to the contextual location of the site, planning history and policy and to the inter departmental reports and the submission made.

Their assessment included the following:

- In view of the orientation, it is not considered that the proposed extension would impact adversely on loss of light or privacy to the adjoining property.
- They provide details on the sewer lines and do not anticipate that this proposal will adversely affect them.
- They would not expect that the proposed development would impact adversely on the amenities or devalue the adjoining property.
- They considered the proposal generally complies with planning policy in the Wexford CDP 2013-2019 (as extended) and to the Courtown and Riverchapel LAP 2015-2021 (as extended).
- They recommend refusal for the proposed rooflights in the front elevation as surplus to the requirements of the attic. In this respect they recommended a split decision i.e permission subject to conditions for the other works proposed and refusal for these rooflights.

3.3. Other Technical Reports

Roads Department

They have no objections to the proposed development which is to use the existing entrance and recommend conditions.

3.4. **Prescribed Bodies**

None noted on file

3.5. **Third Party Observations**

A Submission has been made by the adjoining resident and this is considered further in the context of their Third Party Appeal below.

4.0 **Planning History**

As noted in the Planner's Report, this includes the following:

- Reg.Ref. 20073138 – Permission granted subject to conditions to construct a double garage.
- They note that there is no history of Planning Enforcement on the subject site.

5.0 **Policy Context**

5.1. **Wexford County Development Plan 2022-2028**

Volume 1 provides the Written Statement, Core Strategy and objectives of the Plan.

Table 1-1 refers to the Spatial Planning Framework for Settlements >1500 persons and to the Courtown and Riverchapel LAP 2015-2015 (as extended).

The Core Strategy includes an objective for Compact growth and liveable sustainable settlements. Figure 3-1 Core Strategy Map includes that Courtown & Riverchapel are Service/Strategic Settlements. Table 3-2 provides the 'County Wexford Settlement Hierarchy' and includes these as Level 3a Service Settlements. This includes that the lifetime of the Courtown and Riverchapel LAP has been extended by five years to 2026 and provides the spatial planning framework for this settlement.

Volume 2 provides the Development Management Manual which sets out the standards for different types of development and land uses that will be applied in the assessment of planning applications. Sections of note include:

Section 3 – Residential Developments. Section 3.4 refers to Extensions to Dwelling Houses.

Table 3-4 provides the Minimum Floor Area and Private Open Space for Dwellings. For a 3 bed house this is given as 92sq.m and 60sq.m respectively.

5.2. Courtown & Riverchapel Local Area Plan 2015-2021 (as extended)

Section 3 notes that the site is within Character Area 1 – Courtown and Riverchapel Village Centre.

Section 11 refers to Housing. Section 11.6 while it refers to 'Infill and Backland Development', of relevance, includes that each case will be assessed on its merits having regard to the site's context and zoning and the relevant development management standards set out in the Wexford CDP.

Section 16 refers to Land Use Zoning – as shown on Map 9 the site is within the Village Centre (VC) Land Use Zoning. The Zoning Objective seeks: 'To provide for, protect and strengthen the vitality and viability of the village centres through consolidating development, maximising the use of lands and encouraging a mix of uses'.

The purpose of this zoning is to enhance the vitality and viability of the village centres. This is to be achieved through the appropriate development of under-utilised lands and brownfield sites and by encouraging a variety of uses to make the centres attractive places to visit, shop and live in.

The full use of existing buildings and backlands is to be encouraged with appropriate uses. New development proposals will be required to protect and enhance the character of the centre. The Zoning Matrix notes that Residential is permitted in principle in this zoning.

5.3. **Natural Heritage Designations**

The site is to the south west of the pNHA Courtown Dunes and Glen (Site Code:000757).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

EMK Design Limited Planning & Design Consultants have submitted a Third Party Appeal, on behalf of the adjoining resident Ann Phelan. The Grounds of Appeal include the following:

- The Appellant has no objection to carrying out alterations and extensions but she has issues with the size and scale of the proposed development given the use that is proposed.
- Concerns about the design and layout and bedroom configuration. A much smaller extension should be considered.
- Windows proposed will lead to overlooking and overshadowing to her property.
- Consideration as to whether the proposal, in particular the roof lights to the attic space would comply with the Building Regulations.
- The roof lights in the dining extension will make it possible to see directly from her bedroom window into the neighbouring kitchen/dining area.
- The sunlight will reflect from the roof windows into the windows at the rear of her house.
- Condition no.6 of the Council's permission is of concern as the Appellant's rear garden is considerably higher than her yard. Her oil tank, lawn, shrubs and steps will be completely destroyed during the carrying out of such work (photos attached).
- Considerably more information is needed and a formal agreement to permit such works to her property.

6.2. Applicant Response

A response has been made by Mark Chambers on behalf of the Applicant Peter Lennon and this includes the following:

- The specifics regarding the layout of the first floor are of no concern to the appellant. The layout has been carefully designed to suit the family needs of the applicant.
- They provide that the window referred to by EMK Design Limited does not require to be an escape window as there are two other windows in the room that do satisfy the requirements of being escape windows.
- They do not accept that the proposed extension would cause overshadowing or loss of light to the adjoining property as the building faces to the northwest with the proposed extension lying to the northeast of the building and any shadow cast would be to the northeast.
- The inclusion of the proposed roof lights in the dining extension does not lead to a loss of privacy for the appellant. Opaque glass will be utilised for these windows.
- They refer to the appellant's concerns regarding condition no.6 of the Council's permission and provide that it is not anticipated that there will be any requirement to enter the appellant's property during the course of the works. The building has been designed to be set off the boundary wall.
- There will be no public mains or sewers to the rear of the property and the foul sewer that is present to the rear of the properties is private and belongs to Mr Lennon and Mrs Phelan. Agreement will be made between the properties if any works are required to the sewer.
- They provide that pre-planning consultations took place with Mrs Phelan and that the design was revised to take her concerns into consideration.

6.3. Planning Authority Response

They note that they have not made a submission to the Grounds of Appeal.

6.4. Observations

None

7.0 Assessment

7.1. Policy Considerations

- 7.1.1. It is noted that this proposal was considered by the Council, under the Wexford County Development Plan 2013-2019 (as extended) and that this has now been superseded by the policies and objectives of the Wexford County Development Plan 2022-2028, and those of relevance have been noted in the Policy Section above. This includes those relevant to Housing. In particular, Section 3.4 refers to Extensions to Dwelling Houses and includes that the proposed extension must be of a scale and position on the site which would not be unduly incongruous with its context. It has regard to design and layout and provides that it should not cause undue overlooking or overshadowing nor have an adverse effect on the amenities of or impinge on neighbouring properties.
- 7.1.2. As noted in the Courtown and Riverchapel Local Area Plan 2015-2021 (as extended), the site is located within the Courtown Village Centre Land use zoning, where residential development is permitted in principle. It is also provided that relative to Change of Use and Extensions of Existing Buildings that the use or extension to an existing building would not negatively impact on the amenity of the area or give rise to additional planning considerations.
- 7.1.3. Regard is had to these considerations, the issues raised in the documentation submitted and the need to ascertain that the proposed development would not impact adversely on the adjoining property or the character of the area and would be in the interest of the proper planning and sustainable development, in this Assessment below.

7.2. Design and Layout

- 7.2.1. The site currently contains a two storey 3 bedroom semi-detached house, that is similar to that of the adjoining dwelling. Regard is had to the existing and proposed

floor plans submitted. As noted on the application form the gross floor area of the existing house is 98sq.m. That of the proposed extensions is 46.3sq.m, giving a total floor area of 144.3sq.m.

- 7.2.2. The proposed ground floor extension is to comprise a porch which is to extend the full frontage and be 1m in width. This is not shown to adjoin the adjoining semi-detached property. It is to have a pitched roof and to include two small roof lights. Provided it is constructed in materials to match the existing dwelling, I would not consider that it will adversely affect the adjoining property, or in view of the set back from the road, the character of the area.
- 7.2.3. It is proposed to provide a ground floor and first floor extension to the rear elevation. This is to extend 3.8m from the existing rear elevation and that of the adjoining semi-detached property and is to include a glazed area, which is shown marginally offset from the side boundary. The first floor elevation is shown set back c.1.5m from the boundary. In view of the orientation, i.e the proposed rear extension is to the northeast of the adjoining property, and the proposed first floor set back, I would not consider that the proposed development would adversely affect light to the adjoining property. However, in view of the proximity and the third party concerns about infringement, if the Board decides to permit, I would recommend that the proposed ground floor be set back a minimum of 0.5m from the party boundary fence. Note as seen onsite, this is not a block wall as has been referred to. I would also recommend that as proposed by the applicant in response to third party concerns that the panels on the roof of the dining extension be obscure glazed.
- 7.2.4. The Third Party has queried the configuration of this first floor bedroom extension. The First Party response provides that the extension to the room shall accommodate their sleeping arrangements, an en-suite and a small storage area. The existing area shall accommodate a wardrobe, and small seating area which they provide, will greatly benefit the applicants. The issue of compliance with the Building Regulations relative to escape routes from windows has been referred to and I note the First Party response. These Regulations are dealt with under separate remit.
- 7.2.5. Another item referred to in the description of development is that it is proposed to provide a door to the side elevation. As shown on the proposed floor plans this would be in the location of the utility room. It is noted that this will provide access to the

side passage, which the Site Layout Plans shows within the redline boundary and the ownership of the applicant. It will face the side window of the single storey Garda Station to the northeast. It is noted that they have not objected to this proposal.

- 7.2.6. I note Condition no.2 of the Council's permission, provides that the proposed window at second-floor level within the rear (northwest) elevation of this proposed extension shall be omitted. I would concur with this as it would appear that this is to serve the attic floor space, which would not provide for habitable accommodation.
- 7.2.7. While not shown on the plans submitted, as seen onsite, the existing rear elevation includes 3no. rooflights, it appears that these will be omitted as a result of the proposed development. Two rooflights are proposed in the front elevation. I note that the Council's reason for refusal considers these to be excessive in terms or normal requirements for a non-habitable domestic storage/attic space solely. However, in this case, in view of their size and provided they are inserted so that they are flush with and do not project further forward of the profile of the existing roof, I would not consider that the proposed rooflights in the front elevation would detract from the amenities of the neighbouring property or the character of the area.
- 7.2.8. If the Board decides to permit, I would recommend that revised plans be submitted showing the modifications referred to above and this be conditioned.

7.3. Drainage issues

- 7.3.1. Condition no.6 of the Council's permission includes in summary, that no sewer or water mains networks shall be built over as a result of the proposed development. That in the event, that any manholes or service lines are to be impacted that the applicant agree the appropriate diversion of same with the Area Engineer and Irish Water prior to the commencement of development, and that a revised layout be submitted.
- 7.3.2. The Third Party are concerned about this issue and notes that her rear garden is considerably higher than her yard. She is concerned that her oil tank, lawn, shrubs and steps (photo included with the appeal) will be destroyed by the carrying out of such works. The First Party response provides that the setback from the boundary will permit the construction of the works without any interference to the boundary wall. They provide that there are no public mains or sewers to the rear of the

property and that the foul sewer that is present to the rear of the properties is private and belongs to the applicant and the appellant. They provide that agreement will be made between the parties if any works are required to the sewer.

- 7.3.3. The Planner's Report refers to the LA records noting sewers to the front of the properties. The Site Layout Plan shows a sewer connection going to the northeast side of the property to the public road in front. I note that this shows the location of the sewer but does not show any proposed diversions. On site I noted manholes to the side of the property and inside the rear garden area proximate to the rear of the building and the side gate.
- 7.3.4. I would consider that there is a lack of clarity on this issue and if the Board decides to permit that a condition similar to no.6 of the Council's permission be included to ensure that any proposed works are done in accordance with the requirements of the Council and Irish Water. This should also ensure that the Third Party sewer or rear garden area is not adversely impacted.

7.4. Appropriate Assessment Screening

- 7.4.1. Having regard to the nature and scale of the proposed development i.e: for extensions and modifications to this semi-detached house within a serviced site and the nature of the receiving environment and distance to the nearest European site, it is concluded that no Appropriate Assessment issues arise and 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 would recommend that permission be granted for the proposed development.

9.0 Reasons and Considerations

It is considered that subject to compliance with the following conditions, the extensions and alterations proposed to the existing dwellinghouse would not be detrimental to the amenities of adjoining residential property or to the character and

amenities of the area, or to public health and would therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 21th day of March, 2022, 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 window at second-floor level within the rear (northwest) elevation of the proposed extension shall be omitted.
 - (b) There shall be no encroachment or roof overhang and the proposed ground floor rear extension shall be setback a minimum of 0.5m from the side boundary fence with the adjoining semi-detached house.
 - (c) The panels on the roof of the single storey dining room extension shall be obscure glazed.
 - (d) The proposed rooflights on the front elevation shall be flush with and not project further than the profile of the existing roof and the roofspace/attic shall not be used for habitable accommodation.

Revised drawings showing compliance with these requirements, shall be submitted to, and agreed with the planning authority prior to the commencement of development.

Reason: In the interests of visual and residential amenity.

3. The external finishes of the proposed extensions shall match that of the existing dwelling in respect of materials and colour.

Reason: In the interest of residential and visual amenity.

4. 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, shall be erected on the site/within the rear garden area, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

5. The existing dwelling and proposed extensions 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.

Reason: To restrict the use of the extension in the interest of residential amenity.

6. Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

7. No sewer or water mains shall be built over as a result of the proposed development. In the event that manholes or any service lines are likely to be impacted by the proposed development, or any diversions are required the applicant shall agree this in writing with planning authority prior to the commencement of development.

Reason: In the interests of clarity and public health.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the

development, including hours of working, traffic management and noise reduction measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

9. 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 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Angela Brereton
Planning Inspector

13th of January 2023