



An
Bord
Pleanála

Inspector's Report

ABP-313387-22

Development	170.1sqm two storey extension to side of the dwelling and retention permission for the 68.3sqm two storey extension to the rear.
Location	Begrath Cottage, Begrath, Tullyallen, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	211264
Applicant(s)	Dermot and Sarah O'Neill.
Type of Application	Permission / Retention Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Darren Moonan.
Observer(s)	None
Date of Site Inspection	28 th July 2022.
Inspector	Lucy Roche

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1.0 Site Location and Description

- 1.1. The subject site is located in the rural townland of Begrath, Tullyallen, Co. Louth, c2km west of the M1 motorway and 5km northwest of Drogheda. The site served by the R168 regional road which connects the N2 National Road, c4km to the northwest, to the M1 Motorway at junction 10, c4km to the southeast. The site is situated on a narrow private laneway / cul-de-sac to the west of the R168. The site is set back c35m from the regional road and comprises the third and final residential property served by this laneway. The laneway crosses the northern boundary of the appeal site leading into agricultural lands to the west.
- 1.2. The proposed development site has a stated area of 0.28ha and is roughly rectangular in shape. It comprises a single storey cottage with a two-storey / dormer type addition to its south elevation. The dwelling is situated to the northwest corner of the site and is served by an area of hard to the east. The site rises in a southerly direction above the level of the laneway. The existing dwelling and dormer extension have been built into the slope of the site such that the finished floor level of the dwelling sits below the level of the garden areas to the front (east) and rear (south). The site is bounded by mature vegetation and is well screened from surrounding areas.

2.0 Proposed Development

- 2.1. The application comprises proposals for:
 - The construction of a new 170.1sqm two storey extension to side (east) of the existing dwelling.

The proposed extension comprises a new living room, bedroom, WC and entrance hall at ground floor level and 2no bedrooms with ancillary accommodation at first floor level. The proposed extension features a balcony to its south elevation. External finishes comprise a mix of stone, render, and timber cladding.
 - The retention of an existing 68.3sqm two storey extension to the south.

The proposed extension for retention comprises a two-storey / dormer type structure of c6.145m in height. It accomodates a living area at ground floor

level and bedroom at first floor level. The design incorporates a set of double doors on the southern elevation at first floor level. These doors currently open onto wooden cantilevered platform, with no railings or guardrails.

- The up grading the existing wastewater treatment system and soakaway. Such works were included by way of significant further information received by the planning authority on 03/03/2022.

2.2. Documentation submitted includes:

- Site Characterisation Report
- Specifications for a Oakstown BAF 6 PE Wastewater Treatment System
- Results of soakaway tests carried out in accordance with BRE Digest 365

2.3. Table 1 below provides a schedule of the key details/ figures associated with the proposed development.

Table 1 Schedule of Relevant Site and Development Details		
Site Area	0.28ha	
Proposed GFA	306.2sqm	
Original Dwelling	Floor Area	c68sqm
	Height	4.6
Extension for Retention	Floor Area	68.3
	Height	6.145
Proposed Extension	Floor Area	170.1
	Height	7.705
Services	Water	Public Mains
	Wastewater	On site effluent treatment system (to be up graded)
	Surface Water	Soakway (up graded)

3.0 Planning Authority Decision

3.1. Decision

Louth County Council did by order dated 24th March 2022 decide to grant planning permission for the proposed development subject to 6no conditions. The conditions are standard in nature, the following are of note:

Condition 5: Requires the wastewater treatment system to be installed within six months of the grant of permission

condition 6: Requires that the existing septic tank be decommissioned, desludged and disposed of from site

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The initial report of the case planner (November 2021) has regard to the locational context and planning history of the site, relevant planning policy and the third-party submission received.
- They conclude that the proposed development is unlikely to result in any significant effects on the environment and as such EIAR is not required
- In respect of appropriate assessment, they consider that further information on the capacity of the wastewater treatment is required before a determination is made.
- They consider that the design, scale and form of the proposed extensions and alterations are acceptable and will not result in any adverse visual impact on the character of the existing dwelling or adjoining properties and are in broad compliance with development plan policy.
- They consider the proposed development to be acceptable in principle and that the scale, mass, design and external finishes are sympathetic with the built form and appearance of the existing property.

- They are satisfied that sufficient space is available within the curtilage of the property for the parking and manoeuvring of vehicles and that traffic movements on the lane will not be impacted.
- They recommend that further information is requested in relation to proposals for wastewater treatment and disposal and surface water management.
- They note that development contributions are not applicable for this development
- The second report of the planning authority (March 2022) has regard to the interdepartmental report and third-party submission received. It considers the applicants response to the further information request, which includes proposals for the installation of a new secondary treatment system and soil polishing filter and proposals for a new surface water drainage system and deems such proposals to be acceptable.
- They recommend that permission be granted subject to 6no. conditions

3.2.2. Other Technical Reports

Environmental compliance: Recommends that permission be granted subject to condition

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Third party submissions were received from Mr. Darren Moonan the adjoining landowner to the west of the appeal site and the appellant in this case. The issues raised in the submissions are similar to those set out in the grounds of appeal.

4.0 Planning History

LCC Ref:01/642 Retention permission granted (2001) for as built extensions on both sides of the existing dwelling

LCC Ref:011053 Retention permission granted (2001) for extensions on existing dwelling house

5.0 Policy Context

5.1. Development Plan

5.1.1. The Louth County Development Plan 2021-2027 (LCDP) is the operative plan for the area. The proposed development site is located within a rural area under strong urban influence (Rural Policy Zone 2).

5.1.2. Relevant Objectives:

HOU 34 To encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and are climate resilient.

5.1.3. Development Management Guidelines (Chapter 13)

Section 13.9.20: Residential Extensions

Extending or altering dwellings provides a means to cater for changing circumstances, upgrading or bringing older dwellings up to modern standards. However, these types of works can have a significant impact on the character and appearance of the existing house and local environment if not appropriately designed, sited and finished. Applications for residential extensions should therefore take into the following:

- *The scale, massing, design and external finishes:* these shall be sympathetic with the built form and appearance of the existing property. However, they need not necessarily replicate or imitate the design and finish of the existing dwelling. Contemporary and innovative designs will be considered where they would make a positive contribution to the landscape.
- *Neighbouring residents:* Their privacy or amenities shall not be unduly affected by way of overlooking, overshadowing and/or by way of dominance.

- Recreational and domestic purposes: There should be sufficient space remaining within the curtilage of the property for amenity, parking and the manoeuvring of vehicles.
- Services: If the property is served by an individual on-site wastewater treatment system, this system must have the capacity to accommodate any additional loading in accordance with the requirements of the EPA 'Code of Practice; Domestic Wastewater Treatment Systems (p.e ≤10). This may result in the requirement for existing on-site systems to be upgraded to the current standards.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located on or adjacent to any designated site. The site is located c2.2km to the north of the River Boyne and River Blackwater SAC (Site Code 002299) and cNHA.

5.3. EIA Screening

- 5.3.1. Council Directive 85/337/EEC (as amended) on the assessment of the effects of certain public and private projects on the environment (The EIA Directive) is designed to ensure that projects likely to have significant effects on the environment are subject to comprehensive assessment of their environmental effects prior to development consent being given.
- 5.3.2. The proposed development is not of a type listed under Part 1 or 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) nor is it considered a sub-threshold development for the purposes of Schedule 7 of the Planning and Development Regulations. An EIAR is not therefore required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal lodged by Mr. Darren Moonan against the decision of Louth County Council to grant permission / retention permission for the proposed development at Bgrath Cottage, Bgrath, Tullyallen, Co Louth. Mr. Moonan is the landowner of the neighbouring field to the west of the appeal site. The issues raised in the grounds of appeal are summarised as follows:

- Both the north and west site boundaries as detailed on the submitted plans are incorrect.
- The extension for which retention permission is sought crosses the western site boundary.
- The balcony on the southern elevation of the extension for which retention permission has been sought overlooks Mr. Moonans property and is out of keeping with the cottage.
- During construction, the boundary hedgerow to the west of the extension was removed and has not recovered. This amplifies the impact of the balcony
- The proposed extension is to be constructed on the existing driveway will reduce the parking area available within the site resulting in overflow parking on the lane, which already occurs.

6.2. Applicant Response

The applicant's response to the grounds of appeal can be summarised as follows:

- They have surveyed the boundary fence in detail and submitted a drawing to show the physical boundary and the area in possession.
- They have reviewed the original deeds maps of the property. There is a gap between the original boundary and the original fence line, this is reflective on site. This is the area that the applicants Dermot and Sarah O'Neill took possession of in 2007. They have submitted photographs to demonstrate this gap.

- The balcony referred to in the grounds of appeal is not a usable balcony and does not contain railings or guard rails, it is a covered canopy for the BBQ area. At first floor the area does not overlook any dwelling.
- The proposed extension is set back from the laneway creating an internal courtyard of 6.4m x 15.4m. The existing bank is to be removed allowing for more vehicle and vehicle manoeuvring space. This will provide five standard parking spaces (5m x 2.5m)
- There is no right-of-way along this laneway and the ownership is within the O'Neill demise and their neighbours north of the property line

6.3. Planning Authority Response

The Planning Authority had no further comments in relation to the appeal. They refer all parties to the reports on file

6.4. Observations

- None

6.5. Further Responses

A further submission for the appellant is summarised as follows:

- The fence line indicated in red on the ground floor drawing is a stock fence not a boundary fence
- The gap referred to was cleared last summer while the cottage was being re-slatted
- The west site boundary as shown on the plans submitted is straight the fence line is not straight
- The objection regarding the balcony is reinstated. Railings can be fitted to the balcony
- The current parking situation at Begrath Cottage is very poor. The proposal is poor planning and will lead to tension in the future

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Compliance with County Development Plan:
- Legal Issue – Property Boundary
- Overlooking
- Appropriate Assessment

7.2. Principle Development Plan:

7.2.1. As set out above, permission has been sought for the retention of an existing two storey (dormer type) extension of 68.3sqm to the south of the existing dwelling and for the construction of a new 170.1sqm two storey extension to east. I note that the need for people to extend and renovate their dwellings is recognised and acknowledged in the Louth County Development Plan 2021-2027 and that it is a stated objective of this plan (Objective HOU 34) to encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and are climate resilient. I am therefore satisfied that the extension of the existing dwelling on site is acceptable in principle.

7.2.2. The proposed development would in my opinion represent a substantial extension of the single storey cottage **and** would significantly alter the structures character and scale, however, I am satisfied that the proposed development site can accommodate the height, scale and design of the development proposed and that the proposed extended dwelling would not, due to its siting and location, have a significant negative impact upon the visual amenities or character of this rural area. In addition, I am satisfied that the proposed development which includes proposals to upgrade the existing on-site wastewater treatment and disposal system to current EPA standards and for the installation of a new surface water soakaway, would not have

a significant negative impact upon the receiving environment. I note that concerns have been raised in the grounds of appeal relating to the impact of the proposed extension for retention on the amenities of adjoining lands to the west by way of overlooking, this is to be considered later in this report.

7.3. Legal Issues – Property Boundaries

- 7.3.1. The appellant, the owner of the field to the west of the appeal site, has raised concerns regarding the accuracy of both the north and west boundary lines as detailed on the plans submitted. The main area of dispute appears to relate to a narrow strip of land to the rear (west) of the Begrath Cottage (the subject of this appeal) which as detailed on the plans submitted forms part of the proposed development site. The appellant on the other hand has submitted folio deeds and land registry maps to demonstrate his opinion that this strip of land in question forms part of the adjoining folio to the west, that the applicant's property boundary runs directly adjacent to the rear (west) elevation of the Begrath Cottage rather than along the field boundary and that the extension for retention crosses the boundary line. In response the applicants, having carried out a survey of the boundary and a review of the original deed maps of the property, contend that they are in possession of this strip of land.
- 7.3.2. In consideration of this issue, I refer the Board to Section 5.13 of the Development Management Guidelines (2007) which addresses 'Issues relating to Title to Land' and which states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land and that these are ultimately matters for resolution in the Courts. The Guidelines advise that where there is doubt in relation to the legal title of the applicant, the Planning Authority may decide to grant permission, however a grant of permission is the subject of Section 34(13) of the Planning and Development Act 2000 (as amended). Section 34(13) of the Planning and Development Act states that 'a person is not entitled solely by reason of permission to carry out any development'
- 7.3.3. Having regard to the above, while there may be some doubt as to the location of the property boundary and the applicant's legal interest in the narrow strip of land to the west of Begrath Cottage, I consider that it would be inappropriate to refuse

permission for the proposed development on these grounds and therefore I do not recommend that this ground of appeal be upheld.

7.4. Overlooking:

7.4.1. The appellant is of the opinion that the proposed extension for retention overlooks his field to the west of the appeal site by reason of the following:

- The inclusion of a balcony at first floor level on the southern elevation of the extension for retention
- The removal of vegetation along the field boundary to the west of the proposed extension for retention

7.4.2. The balcony referred to in the grounds of appeal comprises a set of glazed double doors which, as observed during site inspection, open onto a wooden cantilevered deck with no railings or guard rails. The applicants, as set out in their response to the grounds of appeal, contend that it is not a usable balcony but a canopy over a BBQ area.

7.4.3. In respect of overlooking, it is my opinion, following site inspection, that the view from the existing double doors / elevated deck, is limited by existing mature vegetation along the site / field boundary to the west and by the fact the extension has been built into the slope of the site, so that its finished floor level sits below opposing ground floor levels to the south and west. In this regard I refer the Board to the contiguous elevations detailed on Drawing No. (Aa2) E3 and the spot levels detailed on the site layout plan (Drawing No. (Aa2) P1) which show the ground level to the south c1.3m above the finished floor level of the extension. While gaps in the vegetation along the western field boundary do provide a line of sight between the double doors / elevated deck and the adjoining field I am satisfied that the extent of overlooking and the impact of same, particularly having regard to the agricultural use of the adjoining lands, is not significant and would not be detrimental to the amenities of the adjoining field and therefore I do not recommend that this ground of appeal be upheld.

7.5. Parking:

- 7.5.1. The proposed new extension is to be constructed on part of the existing hard surfaced area to the east of the existing dwelling. As observed during site inspection this area is currently used by the applicants for the on-site parking of vehicles. The appellant expresses concern that the proposed extension would reduce the parking area available within the site and lead to overflow parking on the adjoining laneway.
- 7.5.2. I note however that the applicants have clarified, in their response to the grounds of appeal that the proposed extension is set back from the laneway creating an internal courtyard of 6.4m x 15.4m (c98sqm) within the curtilage site for the parking and manoeuvring of vehicles. This area is I consider sufficient to meet the parking demands generated by the proposed extended dwelling and therefore I do not recommend that this ground of appeal be upheld.

7.6. Appropriate Assessment:

The closest Natura 2000 site to the appeal site is the River Boyne and River Blackwater SAC (Site Code 002299) which is located c2.2km to the south of the site. Having regard to the nature and scale of the proposed development which comprises extensions / alterations to an existing habitable dwelling, the wastewater treatment system proposed to serve the dwelling, the details provided on the site characterisation form and the existing residential development in the immediate vicinity, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site

8.0 Recommendation

- 8.1. It is recommended that permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the policies and objectives of the Louth County Development Plan 2021-2027, the location of the existing dwelling and its setting within site, and the nature of the proposed development, it is considered that, subject to compliance with

the conditions set out below the proposed development would not detract from the character of the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not endanger public safety by reason of traffic hazard and would not be prejudicial to public health. 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 retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 3rd 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 retained, carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The proposed new wastewater treatment system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.</p> <p>(b) The existing septic tank shall be decommissioned, desludged and removed from the site in accordance with the EPA Code of Practice (2021)</p> <p>(c) Within three months of the decommissioning of the existing septic tank and the installation of the proposed wastewater treatment system and polishing filter, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the existing septic tank has been decommissioned</p>

	<p>and removed from the site and the proposed wastewater treatment system and polishing filter has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the Environmental Protection Agency document.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes and boundary treatments 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>
4.	<p>The existing dwelling and proposed extensions shall be jointly occupied as a single residential unit and the extensions 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>
5.	<p>Before development commences on the proposed new extension, a full and detailed construction management plan shall be submitted to and agreed in writing with the Planning Authority, which shall include, inter alia, a construction programme for the works, hours of operation, a traffic management plan, noise and dust mitigation measures (including details of a truck wheel wash at the site entrance) and details of construction lighting. A Construction Manager shall be appointed to liase directly with the various sections of the Council.</p> <p>Reason: In the interest of residential amenity, traffic/ pedestrian safety and proper planning and sustainable development.</p>

Lucy Roche
Planning Inspector

8th August 2022