



An
Bord
Pleanála

Inspector's Report ABP-313856-22

Development

A new work from home office attic area and two new windows to the side shown A and B and ancillary works to accommodate same. The retention of development consists of improved insulated attic storage area with additional free standing storage, family shower and toilet area with stairs to access same.

Location

24 Eastham Square, Eastham Road, Bettystown, Co. Meath.

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

22423

Applicant(s)

Ewa Pawlak & Mariusz Kozak

Type of Application

Permission & Permission for Retention

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Decision

Appellant(s)

Mr. & Mrs. Daniel Coyle

Observer(s)

None.

Date of Site Inspection

6th October, 2022

Inspector

Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located at No. 24 Eastham Square, Eastham Road, Bettystown, Co. Meath, approximately 550m east of the coastline at Bettystown Beach, where it occupies a position at the end of a cul-de-sac in a recently developed housing scheme predominantly characterised by conventional two-storey, semi-detached housing (with front & rear garden areas and off-street car parking). It has a stated site area of 0.042 hectares, is rectangular in shape, and is occupied by a two-storey, semi-detached dwelling house situated along the southern side of the local access roadway. To the immediate southwest, the site adjoins the neighbouring garden area of a large detached, two-storey dwelling house set within substantial grounds with the intervening boundary defined by a brickwork wall with high hedging behind.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
- Permission for the retention of improvement and insulation works carried out to the attic storage area of the existing dwelling house, including the provision of additional free standing storage, a family shower & toilet area, and an access stairs.
 - Permission for a new 'work from home' office within the attic space, the installation of 2 No. new windows within the side gable elevation, and ancillary works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 26th May, 2022 the Planning Authority issued a notification of a decision to grant permission & permission for retention of the proposed development, subject to 6 No. conditions. These conditions are generally of a standardised format and relate to issues including external finishes, services, and construction management, although the following conditions are of note:

Condition No. 2 – Requires the gable end windows to be provided with opaque glazing.

Condition No. 3 – Prohibits any occupation of the development other than for purposes ancillary to the residential use of the existing dwelling and further forbids any subdivision of the dwelling for use as an independent residential unit or any other use.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context, planning history and the applicable policy considerations before stating that the proposed development will not have a negative impact on the residential or visual amenity of neighbouring properties or the surrounding area. The report subsequently concludes by recommending a grant of permission.

3.2.2. Other Technical Reports:

None.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

3.4.1. A single submission was received from the appellants, however, in the interests of conciseness, and in order to avoid unnecessary repetition, I would advise the Board that the principal grounds of objection / areas of concern raised therein can be derived from my summation of the grounds of appeal.

4.0 Planning History

4.1. On Site:

PA Ref. No. 211496. Was refused on 18th January, 2021 refusing Ewa Pawlak & Mariusz Kozak permission for the part change of use of the existing attic storage area to provide a work from home office area, with a shower and toilet and two new windows to the side of the dwelling with ancillary works to accommodate same.

- It is considered that the proposed development by reason of its design would be out of character with the existing house types and pattern of development in this well-established residential area. The proposal would constitute a disorderly form of development which would impact negatively on the residential amenity of the adjacent properties and would be out of character with the pattern of development in the area. Accordingly, to grant the proposed development would seriously injure the residential amenities and depreciate the value of adjacent properties in the vicinity, would set an undesirable precedent for similar future developments in the area and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Meath County Development Plan, 2021-2027:

Land Use Zoning:

The proposed development site is located in an area zoned as 'A1 Existing Residential' with the stated land use zoning objective 'To protect and enhance the amenity and character of existing residential communities'.

Other Relevant Sections / Policies:

Chapter 11: Development Management Standards and Land Use Zoning Objectives:

Section 11.4: General Standards applicable to all Development Types:

Section 11.5.25: Extensions in Urban and Rural Areas:

The objective below relates to residential extensions in urban and rural areas.

DM OBJ 50: All applications for residential extensions in urban and rural areas shall comply with the following criteria:

- High quality design which respects, harmonises and integrates with the existing dwelling in terms of height, scale, materials used, finishes, window proportions, etc.;

- The quantity and quality of private open space that would remain to serve the house;
- Flat roof extensions, in a contemporary design context, will be considered on their individual merits;
- Impact on amenities of adjacent residents, in terms of light and privacy. Care should be taken to ensure that the extension does not overshadow windows, yards or gardens or have windows in the flank walls which would reduce a neighbour's privacy;
- Extensions which break the existing front building line will not normally be acceptable. A porch extension which does not significantly break the front building line will normally be permitted;
- Dormer extensions shall not obscure the main features of the existing roof, i.e. should not break the ridge or eaves lines of the roof;
- Proposed side extensions shall retain side access to the rear of the property, where required for utility access, refuse collection, etc.
- Ability to provide adequate car parking within the curtilage of the dwelling house;
- In all cases where diversion or construction over existing sewerage and/or water mains is required, the consent of Irish Water will be required as part of the application.

Section 11.5.26: Home Based Economic Activity:

Home based economic activity is defined as small scale commercial activity carried out by residents of a house or person's main residence, being subordinate to the use of the house as a single dwelling unit and includes working from home. The Council recognises that such working arrangements can benefit individuals, families and the local community in addition to contributing to more sustainable land use patterns by reducing the need for commuting. There is no objection to minor changes of use to allow for this provided the use remains ancillary to the main residential use, the applicant continues to reside in the house and the use has no adverse impact on the amenities of neighbouring dwellings.

DM OBJ 51: In determining applications for developments involving working from home, the Council will have regard to the following:

- The nature and extent of the work.
- The impacts on the amenities of adjoining occupiers, particularly in relation to hours of work, noise and general disturbance.
- Anticipated levels of traffic generated by the proposed development and the potential increased demand for parking.
- Arrangements for the storage of refuse and collection of waste.
- There will be a presumption in favour of this type of use in residential areas. However, such uses will not normally be permitted in apartments except in the case of own-door units accessed from street level.

5.2. Natural Heritage Designations

5.2.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Boyne Coast and Estuary Proposed Natural Heritage Area (Site Code: 001957), approximately 500m northeast of the site.
- The Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), approximately 700m northeast of the site.
- The River Nanny Estuary and Shore Special Protection Area (Site Code: 004158), approximately 1.3km southeast of the site.
- The Laytown Dunes / Nanny Estuary Proposed Natural Heritage Area (Site Code: 000554), approximately 2.1km south of the site.
- The Boyne Estuary Special Protection Area (Site Code: 004080), approximately 2.5km north of the site.

5.3. EIA Screening

5.3.1. Having regard to the minor nature and scale of the proposed development, the site location within an existing built-up area outside of any protected site, the nature of

the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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

- Permission was recently refused under PA Ref. No. 21496 for essentially the same development on site and there are no reasons why that decision should be overturned.
- It is proposed to install 2 No. windows at second floor level in the gable elevation of the existing dwelling house, approximately 5.0m from the boundary shared with the neighbouring property. In combination with the foregoing, the windows will result in overlooking of the appellants' property thereby giving rise to an associated loss of privacy and residential amenity. If permitted, the proposed windows will afford views into all 7 No. rooms to the back of the appellants' home as well as their rear and side garden areas.
- The dimensions of the proposed windows have not been shown although they are noted to be top-hung and opening out.
- The proposed windows will have a detrimental impact on the future development potential of the appellants' property which comprises a large site zoned for residential purposes.
- The 2 No. existing windows at first floor level within the gable elevation of No. 24 Eastham Square should have been fitted with obscure glass as per the original grants of planning permission issued under PA Ref. Nos. SA60368 & SA70562. The glazing within one of these windows contains clear glass in breach of the original planning permission and gives rise to a loss of privacy and residential amenity. Therefore, the proposal to impose a condition

requiring the new windows to be glazed in obscure glass is both unacceptable and unenforceable.

- The submitted drawings show the proposed windows as opening for their full height. Therefore, the use of obscure glass is irrelevant as overlooking will occur when the windows are open. This will particularly be the case during the summer months when the windows are open and the garden is in use.
- Rooflights have been installed between the solar panels on the rear roof pitch of the existing house since the subject application was lodged with the Planning Authority. Therefore, it would appear that the internal works have been completed and that the gable end windows are no longer required.
- The proposed development will set an undesirable precedent for similar works in housing estates where the windows of houses typically face to the front and rear in order to meet the necessary separation distances.

6.2. Applicant Response

- The proposed development differs from that refused permission under PA Ref. No. 211496 in that it provides for top-hung (as opposed to side-opening) windows. Furthermore, during the course of pre-planning discussions, a series of alternative proposals were presented with the agreed option having been submitted as part of the subject application.
- The proposed windows will be c. 29m from the appellants' dwelling house.
- The windows will measure 950mm x 600mm in order to provide for adequate escape openings (850mm x 500mm).
- The use of top-hung windows with obscure glazing will avoid overlooking of the appellant's property. In this regard, the windows will only open 700mm to take in views up to the site boundary (the proposal is only to open the windows 350mm for venting purposes) with full opening only occurring should the need for escape arise. Views will be further restricted by a standing position inside the block wall.
- In relation to the suggestion that the proposal will undermine the development potential of the appellants' property, it should be noted that many local

authorities are opting to reduce the need for adherence to a 22m separation distance between opposing windows where obscure / frosted glass is proposed (particularly for attic conversions to office use). The applicants have no difficulty in providing a letter of support for such an exemption in respect of any future development on the appellants' lands.

- The clear glazing in the existing stairwell window was installed by the builder and the applicants have given a commitment to replace this with obscure glass as part of the proposed construction process.
- The proposed windows will only open to their full extent should the need for escape arise. They will have stays to open to 350mm and 700mm, all with viewing within the boundary walls, with an emergency stay release if required.
- The existing rooflights under the solar panels only provide for a small amount of natural light.
- The suggestion that the proposal will set an undesirable precedent is rejected.

6.3. Planning Authority Response

- The issues raised have already been substantively addressed in the planning report held on file.
- The proposed development is considered to be consistent with the policies and objectives of the Meath County Development Plan, 2021-2027.
- The Board is requested to uphold the decision to grant permission as per the conditions imposed, or such other similar conditions as are required, in the interests of the proper planning and sustainable development of the area.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Impact on residential amenity
- Appropriate assessment

These are assessed as follows:

7.2. Impact on Residential Amenity:

7.2.1. The primary issue raised in the grounds of appeal concerns the proposal to install 2 No. new windows within the side gable elevation of the existing dwelling house to serve the proposed attic conversion and, more specifically, the 'work from home' office space and the associated access stairwell. The windows in question will each measure 950mm x 600mm (in order to provide for adequate escape openings of 850mm x 500mm) and will be glazed in obscured / frosted glass with an opening mechanism restricted to that of a top-hung pivot (unlike the side-hung outward opening system refused permission under PA Ref. No. 211496). They will be set back a distance of 7.5m from the western / south-western site boundary shared with the appellants' property (when account is taken of their positioning within the main body / two-storey element of the existing house) and will be orientated to face towards the side / rear garden of the neighbouring residence (as opposed to the house itself). There will be a separation distance of approximately 30m between the proposed windows and the rear elevation of the appellants' dwelling house with only oblique views available from the new fenestration due to the proposed top-hung opening arrangement and the use of frosted glass.

7.2.2. While I would acknowledge the appellants' concerns that the installation of the aforementioned windows could potentially detract from the residential amenity and enjoyment of their property by reason of overlooking with an associated loss of privacy, in my opinion, given the site context, including its location within a built-up residential area where some degree of overlooking would not be unexpected, the relationship between the proposed development site and neighbouring properties, the separation distances involved, and the specific nature and design of the development (with particular reference to the use of obscured / frosted glass and

top-hung opening mechanisms, and noting that the spaces to be served, namely, a home office and a stairwell, would not typically be expected to give rise to the same level of overlooking as, for example, bedrooms or other living areas), I am satisfied that the proposed development will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by reason of overlooking or a loss of privacy.

- 7.2.3. With respect to the alleged instances of non-compliance with the terms and conditions of any other grants of permission on site (in reference to the need for obscure glazing in the first floor gable end windows of the subject dwelling (House Type A2) as per the parent grant of permission issued under PA Ref. No. LB140907 / ABP Ref. No. PL17.245317), it should be noted that the Board has no function in respect of issues pertaining to enforcement and that the pursuit of such matters is generally the responsibility of the Planning Authority.

7.3. **Appropriate Assessment:**

- 7.3.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the 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. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission & permission for retention be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Meath County Development Plan, 2021-2027, the site location within an existing built-up residential area, and to the minor scale, form and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property 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. The development shall be retained, 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.

Reason: In the interest of clarity.

2. The glazing within the attic level windows on the western gable elevation shall be manufactured with obscure glass and shall be permanently maintained.

Reason: In the interest of residential amenity and to prevent overlooking of adjoining residential property.

3. All external finishes to the proposed development shall harmonise in colour and texture with the existing dwelling on the site.

Reason: In the interest of visual amenity.

4. Site development and building works shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

Robert Speer
Planning Inspector

10th October, 2022