



An
Bord
Pleanála

Inspector's Report ABP- 314106-22

Development	Retention is sought for an existing mono-pitch outbuilding as laid out and constructed for domestic use which is ancillary to an existing dwelling.
Location	High Road, Mornington, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	22/568.
Applicant	Leo McCloskey.
Type of Application	Retention Permission.
Planning Authority Decision	Refusal of Retention Permission.
Type of Appeal	First Party v Refusal.
Appellant	Leo McCloskey.
Observer(s)	None
Date of Site Inspection	29 th November 2022
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1.** The address of the appeal site is High Road, Mornington, Co. Meath. The site has a stated area of c. 0.109ha. and is accessed from a slip road (High Road) on the southern side of the R151. The site is located within the wider settlement of Mornington, c. 5km to the east of Drogheda. The site comprises a single storey dwelling with car parking provided within the front setback. The dwelling is served by an area of amenity space to the rear and an existing outbuilding is located within the southern portion of the site. The site extends beyond the rear property line of the properties to the east and west and there is an area of hard standing/paving and children's play equipment within this portion of the site. There is also vehicular access to this portion of the site from the lands further to the east.
- 1.2.** In terms of the site surrounds, existing dwellings are located to the east and west of the appeal site along High Road. The River Boyne is located to the north of the site on the opposite side of the R151 and lands to the south appear to be in agricultural use.

2.0 Proposed Development

- 2.1.** The proposal seeks planning consent to retain an outbuilding located to the rear of the existing dwelling. The outbuilding has a mono-pitched roof with a maximum height of c. 3.25m and a stated floor area of c. 42.6sq.m. In terms of materials and finishes, the existing structure has a corrugated metal sheet roof and the principal elevations are clad in a horizo timber finish. It is stated that the structure is utilised for domestic use which is ancillary to the existing dwelling on site.

3.0 Planning Authority Decision

3.1. Decision

Meath County Council refused retention permission for the development for the following 1 no. reason:

1. "Having regard to the site boundary which extends into a countryside location, as per the current zoning map of Meath County Development Plan 2021-2027

and the vehicle access and driveway that runs to the rear of existing dwellings and play equipment which all would not be sited within the immediate residential curtilage of the parent dwelling, is considered that the development if permitted would represent a haphazard piecemeal form of development in a rural area, would impact on the residential amenity of the existing adjoining properties, would depreciate the value of the adjoining properties and set an undesirable precedent for similar future development in the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Report

The Meath County Council Planning Report forms the basis for the decision. The report provides a description of the appeal site and the proposed development. It also sets out the planning history of the site and provides an overview of the policy at local level that is relevant to the development proposal.

The report notes that the structure is located within the curtilage of an existing dwelling and is currently in domestic hobby use. Given the nature of the proposal, the Planning Authority is satisfied that the principle of the proposed development is acceptable. However, it is stated that there is a hardstanding area, children’s play equipment, vehicular access and a driveway which appear to be associated with this structure but have not been included within the application. It is noted that these elements are sited within a rural area as per the land use zoning map.

The Planning Authority indicate that aerial imagery demonstrate that this area of the site has been extended south for which no permission has been granted for a change of use of agricultural lands to residential. In this regard, it is stated that to permit the application would set an undesirable precedent for similar future proposals and the proposal would represent a haphazard piecemeal form of development. A refusal of retention permission is therefore recommended.

3.2.2. Other Technical Reports

None.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Observations

None.

4.0 Planning History

95/1351: Planning permission granted by the Planning Authority to retain alterations to already approved extension 95/168, namely new door and window positions and exterior wall finish.

95/168: Planning permission granted by the Planning Authority to construct an extension to sitting room and construct a new porch.

91/281: Planning permission granted by the Planning Authority for the erection of extension to an existing dwelling.

5.0 Policy and Context

5.1. Meath County Development Plan (CDP), 2021-2027.

The majority of the appeal site is located on lands zoned 'A1 – Existing Residential', the objective of which is 'To protect and enhance the amenity and character of existing residential communities'. I note that the southern portion of the appeal site is zoned 'RA – Rural Area', which has an objective 'To protect and promote in a balanced way, the development of agriculture, forestry and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'.

Given the nature of the proposal, Section 11.5.25 (Extensions in Urban and Rural Areas) is relevant to the consideration of the application. Policy Objective DM OBJ 50

notes that 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.

5.2. Natural Heritage Designations

The nearest designated site are the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957) and the Boyne Estuary Special Protection Area (SPA) (Site Code: 004080) which are located c. 50m to the north of the appeal site.

The 'Proposed Natural Heritage Area: Boyne Coast and Estuary' is also located c. 50m to site's north.

5.3. EIA Screening

Having regard to the nature and scale the development which consists of the retention of a domestic outbuilding, there is no real likelihood of significant effects on the environment arising from the development to be retained. 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

The main points made can be summarised as follows:

- It is stated that the Applicant and his wife have occupied the existing dwelling for decades and they purchased and erected a single storey timber framed and clad modular outbuilding for use as a games room and hobby shop for his family and grandchildren.
- It is stated that the building is located within the boundaries of the original family home site and does not project into the extended garden area to the rear of the original house site.
- The Applicant has formed a play area for his grandchildren in the extended garden area which includes play equipment. It is stated that there are no fixed buildings within this portion of the site and the open space area is enclosed by fencing and perimeter hedging.
- The vehicle access and driveway described in the reason for refusal is not on the Applicant's home site or extended garden area and does not form part of the subject application. It is stated that the private play area is located directly behind the family home and is not visible from the rear gardens of adjoining residential properties.
- In terms of depreciating the value of adjoining properties, the appeal submission notes that there is no reference as to how this statement was arrived at in terms of value calculations before and after the works were carried

out. It is contended that this statement appears to be an ad hoc thrown in statement to the reason for refusal.

- It is noted in the appeal submission that the provision of a children's play area within an extended garden is not development, and such should not be quoted as a reason for refusing the Applicant's timber garden building which is in ancillary use to the existing dwelling on site.

6.2. Planning Authority Response

A response has been received from the Planning Authority dated 17th August 2022 which noted that they are satisfied that all matters outlined in the First Party appeal submission were considered in the course of its assessment of the planning application as detailed in the planning officer's report. The Board is requested to uphold the decision of the Planning Authority.

6.3. Observations

None.

6.4. Further Responses

None sought.

7.0 Assessment

The main issues are those raised in the appellant's grounds of appeal, the Planning Report and the consequent reason for refusal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Unauthorised Works
- Principle of Development
- Residential & Visual Amenity
- Appropriate Assessment.

7.1. Unauthorised Works

- 7.1.1. Within their assessment of the planning application, the Planning Authority refer to additional works that have been carried out on the application site without the benefit of planning permission. These works comprise the extension of the existing property boundaries to the south, thereby changing the use of the lands from agriculture to residential. Reference is also made to a hardstanding/paving area for car parking, a children's play area and equipment and vehicular access linking to the lands further to the east, which are all located within this portion of the site. The Planning Authority note that these works did not form part of the application and it was considered that the development if permitted would represent a haphazard piecemeal form of development in a rural area, would impact on the residential amenity of the existing adjoining properties, would depreciate the value of the adjoining properties and would set an undesirable precedent for similar future development in the area. This formed the singular reason for refusal.
- 7.1.2. It is evident that works have been facilitated on site to extend the amenity area of the dwelling further to the south, a point that is not disputed in the appeal submission. Historic aerial imagery of the site and surrounds demonstrate that the boundaries of sites further to the east have also been modified. Whilst I observed that there is an existing vehicular access at the southern end of the site's eastern boundary, I note that the lands further to the east are outside the red line site boundary. As there is no blue line boundary indicated on the submitted plans, it would appear that these lands are outside the control of the Applicant. Notwithstanding the commentary of the Planning Authority and the works observed on site, the proposed development seeks to retain a domestic outbuilding which is ancillary to the existing dwelling on site. This is what was explicitly described on the planning application form which accompanied the application and on the public notices.
- 7.1.3. I note that the adequacy of the development description is a matter for the Planning Authority to consider at the initial validation stage. In addition, Article 26(4) of the Planning and Development Regulations, 2001 (as amended) notes that "Where, on inspection of the land to which the application relates, the planning authority considers

that the requirements of articles 17(1)(b), 19 or 20 have not been met, or the information submitted in the planning application is substantially incorrect or substantial information has been omitted, the planning application shall, notwithstanding the fact that an acknowledgement has been sent to an applicant in accordance with sub-article (2), be invalid.” I note that in this instance, the application was not invalidated following the inspection of the subject site, when these additional works came to the attention of the Planning Authority. Therefore, given the nature of the development proposal, this assessment focuses specifically on the merits of the development which form the basis of the planning application, i.e. a domestic outbuilding which is ancillary to the existing dwelling.

7.1.4. In terms of the allegations of unauthorised works included within the Planning Report and the reason for refusal, I note that planning enforcement is the role of the respective Planning Authority, and An Bord Pleanála has no role in this matter. Whether enforcement proceedings are brought with respect to other works on site is a matter for the Planning Authority to consider and does not come within the scope of this appeal. The appeal submission has responded to the commentary of the Planning Authority and it is contended that the aforementioned works are not classified as development. I again note that An Bord Pleanála has no role in this specific matter and this assessment focuses solely on the works which form the basis of this planning application.

7.2. Principle of Development

7.2.1. The proposal seeks planning consent to retain an existing outbuilding located to the rear of the Applicant’s dwelling. The development description notes that the structure is for domestic use only which is ancillary to the existing dwelling on site. The appeal submission also notes that the Applicant purchased and erected the structure for use as a games room and hobby shop for his family and grandchildren. This was confirmed following my inspection of the appeal site. I note that the majority of the appeal site is located on lands zoned ‘A1 – Existing Residential’, the objective of which is ‘To protect and enhance the amenity and character of existing residential communities’. This zoning objective also applies to lands to east and west of the site which all appear to

be in residential use. However, I note that the southern end of the appeal site falls within lands zoned 'RA – Rural Area'. From my inspection of the appeal site and the zoning maps that pertain to the lands, it would appear the structure for which retention permission is sought, is located within lands zoned 'A1 – Existing Residential'. This point is confirmed by the Planning Authority in their assessment of the planning application. Having regard to the zoning objective that applies to the lands and nature and use of the structure to be retained (i.e. an ancillary domestic outbuilding), I am satisfied that the principle of the development is acceptable at this location. This is subject to the protection of the residential and visual amenity of the surrounding area which I discuss in further detail in following section of this report.

7.3. Residential & Visual Amenity

- 7.3.1. As noted, the proposed outbuilding is located to the rear of the dwelling and has a stated floor area of c. 42.5sq.m. The 'L' shaped building has a mono-pitched roof with a maximum height of c. 3.25m and is set back by between c. 1.5m and c. 3.25m from the site's the western site boundary. Having regard to the overall scale, height and form of the existing outbuilding, its setback from the site boundaries and the overall size of the rear amenity areas to the east and west of the appeal site, I am satisfied that the development to be retained will not adversely impact the residential amenity of properties within the vicinity of the site by reasons of overlooking, overshadowing or by being visually overbearing. In this regard, the development to be retained is acceptable having regard to the residential amenity of the surrounding area.
- 7.3.2. I note that the outbuilding it is not visible from the public realm given it is located to the rear of the existing dwelling, within its rear amenity space. I am therefore satisfied that the proposal will not adversely impact the character or visual amenity of the surrounding area. The development to be retained is therefore considered to be in accordance with the zoning provisions of the site and surrounds and its retention is acceptable in this instance.

7.4. Appropriate Assessment

- 7.4.1. As noted, the nearest Natura designated sites are the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957) and the Boyne Estuary Special Protection Area (SPA) (Site Code: 004080) which are located c. 50m to the north of the appeal site. Taking into consideration the modest nature, extent and scope of the development to be retained and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, that no appropriate assessment issues arise and that the development to be retained 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. Grant of retention permission is recommended.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Meath County Development Plan, 2021-2027, the nature of the development to be retained and the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the development to be retained would not seriously injure the residential or visual amenities of the area or of property in the vicinity, is acceptable having regard to the character of the site and surrounds and would constitute an acceptable form of development at this location. The development to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development to be retained shall comply with the plans and particulars lodged with the application submitted, 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
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	commencement of development and the development shall be completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	The use of the outbuilding for residential purposes shall be restricted to a residential use directly associated with the use of the existing house on the site for such purposes, and the structure shall not be subdivided from the existing house, either by way of sale or letting or otherwise. The structure shall not be used for the carrying out of any trade or business. Reason: In the interest of the proper planning and sustainable development of the area.

Enda Duignan
Planning Inspector

30/11/2022