



An
Bord
Pleanála

Inspector's Report ABP-314733-22

Development	Retention of Conversion of attic space to living accommodation.
Location	No. 10 Chancery Lane, Cloncollog, Tullamore, Co. Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	22/351
Applicant(s)	John Daly
Type of Application	Retention
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	Mary Kelly
Observer(s)	None
Date of Site Inspection	15 th June 2023
Inspector	Colm Ryan

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1.0 Site Location and Description

- 1.1. Chancery lane is a residential area comprised by detached single and two storey dwellings in Cloncollog, Tullamore, approximately 2km from Tullamore town centre.
- 1.2. No. 10 Chancery Lane is a single storey detached dwelling. The site is bounded by residential dwellings to the north, east and west, with open green space bounding the south of the dwelling. The roof space has been converted to living space with 4 no. roof windows to the rear and western side elevation.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - The conversion of attic space to living accommodation
 - The construction of 4 no. roof windows including 3 no. to the rear elevation and 1 no. to the western elevation
 - Insertion of obscure glazing in the two rear fire escape windows
 - Removal of condition no. 3 of planning reference pd08/77 (TU7708) – *'The proposed dwelling shall be single storey only'*.
- 2.2. The planning application was supported by the following reports/studies;
 - A full suite of architectural drawings

3.0 Planning Authority Decision

3.1. Decision

The planning authority issued a Notification of Decision to Grant Permission on the 5th of September 2022, subject to 2 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to grant permission in the Planner's Report reflects the decision of the Planning Authority.

The report of the Planning Officer (dated 2nd September 2022) includes the following comments;

- The site is zoned 'Existing Residential' in the Offaly County Council Development Plan 2021-2027, the objective for which is 'Protect and enhance the amenity and character of developed residential communities'.
- Notes that the applicant has proposed obscured glazing on the two-bedroom roof windows facing north in order to overcome the refusal reason of application 21/30 relating to privacy impacts.
- Given the minor works, it is not considered that the Area Engineers conditions are essential to this application.
- Given the minor works, it is not considered that the OCC Environment and Water conditions are essential to this application.
- Given the distance of windows from other properties and the proposal of obscured glass the proposal is considered acceptable in principle.

3.2.2. Other Technical Reports

- A submission from Environment and Water Services was made in respect of this application stating that Water Services have no objection to the development subject to a number of conditions.
- The area engineer had no objection to the development subject to a number of conditions.

3.3. Third Party Observations

- A Third-Party observation was made by Mary Kelly of Chancery Lane, Tullamore, Co. Offaly on 15th August 2022, the observation notes that:
 - The insertion of 4 no. 'illegal unauthorised' roof windows are impacting the privacy of her property due to overlooking.
 - The retention application is seeking to obtain permission for a proposal that was previously refused by the local authority.

- Permitting this development will set an 'avoidable and regrettable precedent for development in the Tullamore area'.

4.0 Planning History

Appeal Site

- 21/30 John Daly applied for '*Existing development as constructed, containing existing dwelling and garage and all associated site works. Permission is sought to install 2 no. Fire escape roof windows to the rear of existing dwelling and to carry out minor internal compliance works. Development previously granted permission under planning files pd05/4242 and tu7708*'.
 - This application had 1 no. refusal reason: '*The development (to be retained and proposed) would contravene condition no. 3 of planning ref: PD08/77 which states that the dwelling shall be single storey only. The proposed windows to the rear at first floor level would give rise to overlooking and would negatively impact on adjoining residential amenities which it considers necessary to maintain in the interests of proper planning and sustainable development*'.
- PD08/77 TU7708 Retention Granted for Development which consists of (1) A bungalow dwelling house with a revised floor level from previously granted planning permission Ref: PD05/4242 to accommodate existing services and (2) a relocated detached garage with revised floor level and associated site works.
- UD 12/40 warning letter issued to John Daly regarding noncompliance with condition number 1 of PD 08/77 and condition 3 which requires that the house be single storey only.
- UD 21/30 Enforcement file in relation to unauthorised development on site.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The Offaly County Development Plan 2021-2027 is the operative County Development Plan for the area.

Zoning

The site is zoned 'Existing Residential' the objective for which is '*Protect and enhance the amenity and character of developed residential communities*'.

- 5.1.2. Development Management Standard DMS-55 is particularly relevant to the proposed development seeking to:

'Proposed extensions shall:

- *In general, be subordinate to the existing dwelling in its size, unless in exceptional cases, a larger extension compliments the existing dwelling in its design and massing;*
- *reflect the window proportions, detailing and finishes, texture, materials and colour unless a high quality contemporary and innovatively designed extension is proposed;*
- *not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact; and*
- *carefully consider site coverage to avoid unacceptable loss of private open space.*

Where new extensions are proposed very close to adjoining buildings and may impact upon the residential amenities of an adjacent property, daylight and shadow projections will be required in accordance with the recommendations of Site Layout Planning for daylight and Sunlight: A Guide to Good Practice (BR 209, 2011) and BS 8206 Lighting for Buildings, Part 2, 2008: Code of Practice for daylighting or other updated relevant documents'.

5.2. Natural Heritage Designations

There are no Natural Heritage Designations associated with the site.

5.3. EIA Screening

It is considered that the proposed development does not constitute a development listed in schedule 5 of the planning and development regulations 2001 as amended. Furthermore, it is not a sub threshold development. Accordingly, an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was made in respect of the decision by Offaly County Council to Grant Permission. The Grounds of Appeal by Mary Kelly of Chancery Lane, Tullamore is summarised as follows:

- An application for a similar development was previously refused in March 2021.
- The granting of the application will set a 'regrettable precedent' for development in Tullamore.

6.2. Applicant Response

- None received.

6.3. Planning Authority Response

- Offaly County Council respectfully requests the board supports its decision in this instance.

6.4. Observations

- None received.

6.5. Further Responses

- N/A

7.0 Assessment

- 7.1. The applicant has proposed an obscured glazing on the bathroom and two-bedroom roof windows facing the appellant's property in order to overcome the refusal reason of application reference 21/30. The refusal reasons relating to the overlooking and privacy of neighbouring properties and the proposed development's contravention of condition no. 3 of Planning Reference PD08/77.
- 7.2. In the new application the application proposed to remove condition no. 3 of Application reference PD08/77 which states that the dwelling shall be single storey only, the proposal also included obscure glazing in response to privacy concerns. The removal of condition no. 3 and inclusion of obscure glazing adequately deals with the refusal reason set out in planning reference 21/30.
- 7.3. The proposed development is in accordance with the provisions of development management standard; DMS-55 Extensions, specifically '*proposed extensions shall not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact*'.
- 7.4. Based on the precedent of development in the area the development of rear roof windows is in keeping with the surrounding development.

8.0 Recommendation

Having regard to the documentation on file, the grounds of appeal, a site inspection and the assessment above I recommend that a **Grant of Retention Permission** for the Conversion of attic space to living accommodation and 4 no. roof windows be issued.

9.0 Reasons and Considerations

Having regard to the nature and extent of the development for which permission to retain is being sought, it is considered that the proposed development, subject to the compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, and would, therefore, be in accordance provisions of the Offaly County Development Plan 2021-2027 and in keeping with the principles of proper planning and sustainable development.

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>The roof windows on the first-floor bathroom and two-bedroom windows shall be of obscured glazing. Within the first four months of the granting of this permission a letter from an indemnified engineer shall be submitted to the planning authority confirming that obscured glazing has been installed. No change to non-obscured glazing on the aforementioned windows is permitted at any time.</p> <p>Reason: In the interests of residential amenity</p>

Advice Note to Applicant:

The applicant is advised that Section 34(13) of the Planning and Development Act 2000, as amended, states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'. Thus, in the event of any grant of planning permission, the onus is on the applicant to ensure that you have adequate legal interest to carry out the proposed development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has

influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.



Colm Ryan
Planning Inspector

9th October 2023