



An
Bord
Pleanála

Inspector's Report

ABP-315175-22

Development	Retention of works to an existing property subdivided into flats and permission for alterations to driveway gate and installation of a new balcony.
Location	5 South Abbey, O'Brien Place, Youghal Co Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	224697
Applicant(s)	Noel Coughlan
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant
Appellant(s)	Caroline Cooper
Observer(s)	None
Date of Site Inspection	4 th May 2023
Inspector	Eoin Kelliher

1.0 Site Location and Description

- 1.1. The subject site is located on the east side of South Abbey / O'Brien's Place, c.300m south of Youghal town centre and c.20m west of Youghal Harbour, Co. Cork. The site has an L-shaped configuration and a stated area of 0.023ha.
- 1.2. The site comprises a four-storey building (No. 5 South Abbey) forming part of a terrace of listed Georgian houses fronting directly onto the street. The building has been converted into 5 no. flats and recently extended to the rear by way of a ground floor extension comprising an additional one-bedroom flat and a small first floor extension providing associated storage space. These extensions have not been fully completed and construction works appear to have been put on hold. There is a concrete yard to the rear of the building with vehicular access from an adjoining lane to the north (Paxes Lane) via newly installed metal panelled gates. A replacement first floor balcony has also been installed to the rear of the building.
- 1.3. The subject site wraps around a pair of two-storey houses (No. 6 and No. 7 South Abbey) fronting onto Paxes Lane. No. 6 South Abbey, which belongs to the appellant, is located at the junction of Paxes Lane and South Abbey. No. 7 South Abbey is located to the east of No. 6 and adjoins the vehicular entrance to the subject site. The rear (south) elevation of No. 6 and No. 7 comprises a shared gable built on the common boundary with the subject site; this gable contains a first-floor bedroom window belonging to No. 6. The side (east) elevation of No. 7 is also built on the common boundary and contains ground and first floor windows overlooking the rear yard of the subject property.
- 1.4. There is a modern dormer dwelling to the east of the site which is also accessed from Paxes Lane. This property comprises what was formerly the eastern end of the rear garden of the subject property. The adjoining terraced Georgian house to the south of the site (No. 4 South Abbey) has been extended to the rear by way of a ground floor extension spanning the full width of the house and projecting circa 8m along the common boundary.

2.0 Proposed Development

2.1. Permission is sought for the retention of the following works:

- Demolition of existing ground and first floor annexes to the rear of the building. The ground floor annex comprised a long narrow lean-to structure abutting the southern boundary and appears on historical mapping, the first-floor annex comprised a later bathroom extension clad in corrugated iron sheeting.
- Removal of an existing rusted metal panel entrance gate located on Paxes Lane. This gate has been replaced with a new bi-folding metal panelled gate.
- Newly constructed ground floor annex containing a one bedroom flat (with a stated floor area of 34sq.m) and an associated first-floor loft/storage annex (c.6.9sq.m). The ground floor annex has a flat roof circa 2.9m in height and extends as far as the building line of the extension to the rear of No. 4 South Abbey; it is set 1.4m back from the rear facade of No. 6 and No. 7 South Abbey. The first-floor annex comprises a flat roofed store/study in the same location as the demolished bathroom extension and accessible from the ground floor of the flat by way of a loft ladder. When completed the ground and first floor annexes would be finished in painted render and dark green corrugated iron respectively. A private patio is proposed adjacent to the flat's main living space.

Permission is also sought to carry out the following works:

- Alterations to newly installed vehicular access gates to make provision for a pedestrian gate on Paxes Lane.
- Installation of a new metal safety balcony on the first-floor rear elevation of the house. This balcony is similar in design and fabrication to the existing balconies on the floors overhead and had been installed at the time of the site inspection.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 28th October 2022 Cork County Council decided to grant permission subject to 5 no. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Report

The Planning Officer was satisfied that an acceptable standard of residential amenity would be provided for and that negative overlooking impacts on adjoining properties would not arise. The provision of communal refuse storage within the rear yard and a pedestrian entrance on Paxes Lane were considered positively in terms of residential amenity and passive surveillance. The reduction in on-site car parking arising from the development was deemed acceptable given the town centre location of the site.

An Archaeological Assessment was sought by way of further information as recommended by the Council's archaeologist.

Subsequent Report

The Planning Officer recommended granting permission as the Council's archaeologist was satisfied that the Archaeological Assessment undertaken by the applicant addressed the archaeological issues raised.

The decision of the Planning Authority reflects the Planning Officer's recommendation.

3.2.2. Other Technical Reports:

Conservation Officer: Notes there are modern extensions to other properties on the terrace, some of which are contemporary. Raises no objection to the retention and completion of the extension.

Archaeologist: Initial report notes the site is located within the zone of archaeological potential of a Franciscan abbey (RMP ref. CO067-028001) with potential for significant subsurface archaeology and that the subject building may contain

fragments of architectural features associated with the abbey. Report recommended seeking an Archaeological Impact Assessment of the development by way of further information.

Subsequent report states that as the works have already been carried out and mitigation measures are not necessary no further archaeological input is required. Report highlights that any future works in this area involving ground works will require archaeological assessment.

Area Engineer: No objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

2 no. third-party observations were made in respect of the application. The issues raised in the submission are echoed in the appeal which is summarised in Section 6.1 below.

4.0 Planning History

P.A. reg. ref. 21/6830: Planning application for retention of works comprising demolition of an existing rear annex and construction of a new rear annex containing an additional dwelling unit/granny flat withdrawn 13th January 2021.

5.0 Policy Context

5.1. Cork County Development Plan 2022

- 5.1.1. The subject site is located within the development boundary of Youghal town in an area zoned 'Existing Residential / Mixed Residential and Other Uses'.
- 5.1.2. Section 18.3.3 of the County Development Plan states, *inter alia*, that the objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are

appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties.

- 5.1.3. No. 5 South Abbey is listed on the Record of Protected Structures and is located within the Youghal Architectural Conservation Area.
- 5.1.4. The subject site is located within the zone of notification of a Franciscan friary (South Abbey) included on the Record of Monuments and Places (RMP No. CO067-028001) and 2 no. sites containing architectural fragments from the friary (RMP No. CO067-028001 to 028007 and RMP No. CO067-208002 and 208003).
- 5.1.5. The following objectives of the County Development Plan are of relevance:
 - **HE16-2** regarding the protection of archaeological sites and monuments.
 - **HE 16-14(d)** regarding the protection of all structures included in the RPS.
 - **HE16-14(e)** to protect the curtilage and attendant grounds of all structures included in the RPS.
 - **HE16-14(f)** to ensure that development proposals are appropriate in terms of architectural treatment, character, scale and form to the existing protected structure and not detrimental to the special character and integrity of the protected structure and its setting.
 - **HE16-14(g)** to ensure that high quality architectural design of all new development relating to or which may impact on structures (and their settings) included in the RPS.
 - **HE16-18** regarding the conservation and enhancement of the special character of the Architectural Conservation Areas included in the Plan.
 - **TM12-9** regarding parking provision.

5.2. **Architectural Heritage Protection Guidelines for Planning Authorities (2011)**

The guidelines comprise two parts, the first of which sets out legislative and administrative provisions for Protected Structures and Architectural Conservation Areas. The second part comprises detailed guidance notes on conservation principles and works relating to protected structures.

5.3. Design Standards for New Apartments: Guidelines for Planning Authorities (2022)

These guidelines set out, *inter alia*, required minimum floor areas and standards for apartments. The guidelines provide scope for planning authorities to exercise discretion on a case-by-case basis when dealing with building refurbishment or urban infill schemes, having regard to the overall quality of a proposed development.

5.4. The Planning System and Flood Risk Management: Guidelines for Planning Authorities (2009)

The Guidelines introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. The core objectives of the guidelines include, *inter alia*, the avoidance of inappropriate development in areas at risk of flooding.

5.5. Natural Heritage Designations

The Blackwater River Special Area of Conservation (Site Code 02170) is located circa 21m east of the subject site.

5.6. EIA Screening

The development to be retained and the proposed development relate to a Protected Structure located within an Architectural Conservation Area, and a site located within the zone of notification of archaeological monuments on the Record of Monuments and Places. However, having regard to the small scale and nature of the proposed works and the characteristics of these environmental features, and in the absence of any other significant environmental sensitivity in the vicinity, I am satisfied that there is no real likelihood of significant effects on the environment arising from the development. The need for environmental assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal made by the owner of the adjoining dwelling, No. 6 South Abbey, against the decision of Cork County Council to grant permission. The grounds of appeal can be summarised as follows:

- The subject property was not converted to 5 no. apartments when the applicant purchased it in 1997. There is no planning consent for previous works carried out to the building including the installation of balconies to the rear.
- The unauthorised works were undertaken during the Covid-19 lockdown when there was a blanket ban on construction and without consulting the adjoining property owners.
- The site is subject to frequent tidal flooding; building another dwelling in an area known to flood poses a high risk. A flood risk assessment of the proposed development was not carried out.
- The proposed additional apartment would exacerbate existing noise and anti-social behaviour impacts emanating from the existing 5 no. flats on the site.
- The extensions to be retained are overbearing and overshadow and overlook the appellant's courtyard.
- Concerns raised regarding light and privacy impacts on the appellant's bedroom window which was not shown on the planning application drawings.
- The balconies to the rear of the building are used daily by tenants and not just for potted plants as indicated by the applicant. Concerns raised regarding their durability and safety.
- The side entrance gates were removed and widened to make a larger entrance with an entirely different type of gate.
- Concerns raised regarding potential odours coming from the skylight on the roof of the extension and vents to the side of the extension which are not shown on the planning application drawings.

- There is insufficient on-street carparking to cater for the proposed additional apartment, which would also generate additional traffic and noise pollution.
- Concerns raised regarding fire safety and whether the overall development has been inspected by the fire officer / is compliant with planning and building regulations.
- Concerns raised regarding the removal of a buttress supporting No. 6 and No. 7 South Abbey to facilitate the development.
- No consideration was given to archaeology when old ruins were found during the building works. It is possible that archaeological remains were contained in the walls and foundations of the shed that was removed during the development.
- The site is located within a zone of archaeological potential associated with a Franciscan friary (South Abbey); archaeological remains including the external wall of the abbey and complete skeletal remains at Paxes Lane were discovered during local main drainage works.

6.2. Applicant Response

A response to the appeal was submitted by Alan Larsson on behalf of the applicant and can be summarised as follows:

- The applicant mistakenly understood that the works were exempted development as they were under 40sq.m in area; following receipt of an enforcement notice the applicant sought to rectify this matter by way of a planning application.
- Overlooking impacts from the ground floor window of the extension into the adjoining first floor window of the appellant's property are not possible.
- The removed buttress referred to in the appeal was in fact the gable end of an original single storey lean-to annex which is assumed to have been demolished during the construction of the adjacent property.
- The as-built extension in conjunction with the planning drawings and planning conditions will form the final outcome of the development.

6.3. **Planning Authority Response**

No further comment to make on the appeal.

6.4. **Observations**

None.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Impacts on Residential Amenity
- Impacts on Built Heritage
- Flood Risk
- Car Parking and Traffic
- Other Matters
- Appropriate Assessment

7.2. **Impacts on Residential Amenity**

- 7.2.1. I note the appellant's concerns regarding overlooking, overbearing, loss of light and noise and odour impacts on her property. Notwithstanding same, the ground and first annexes to be retained do not contain any directly opposing windows which would seriously diminish the privacy of the appellant's first floor bedroom. Furthermore, the proposed first-floor balcony (now installed) does not overlook the courtyard space within the appellant's property owing to the height of the adjoining party wall.
- 7.2.2. The annexes to be retained would be visible from the appellant's first floor bedroom window only. Whilst the first-floor annex is larger than the bathroom extension that previously existed at this location, it is still sufficiently removed (circa 4.2m as scaled from drawing) from the appellant's bedroom window so as not to appear overbearing

or give rise a noticeable loss of daylight and sunlight, particularly given its modest height (2.575m over the level of the flat roof of the ground floor annex) and length (3.1m).

- 7.2.3. From a planning perspective I am also satisfied that adverse noise impacts would not arise given the residential nature of the development to be retained. Noise impacts arising from anti-social behaviour is not a matter to be addressed through the planning system. I do, however, note the proximity of the first-floor balcony to be retained to the appellant's bedroom window and would question whether such balconies are appropriate to the rear of a terrace mainly comprising houses.
- 7.2.4. Finally, any potential for malodours emanating from opening windows or vents serving a residential unit would be negligible, particularly given the distance from the subject flat to the appellant's bedroom window in this instance.
- 7.2.5. Having regard to the foregoing, I am satisfied that the proposed development would not seriously injure the residential amenity of the appellant's property.

7.3. Impacts on Built Heritage

- 7.3.1. The subject property, No. 5 South Abbey, is described in the National Inventory of Architectural Heritage as a terraced three-by four-storey house, built c.1820, as part of a terrace of four, which retains much of its original form and appearance. Whilst I note the loss of earlier annexes to the rear of the house including outhouses and a bathroom extension, I do not consider the architectural value of these structures so great to have warranted their retention. I also note that the replacement ground and first floor annexes do not interfere unduly with the composition of the principal rear façade of the building, although I agree with the appellant that a higher standard of design and finishes could have been achieved. Overall, however, I am satisfied that the annexes to be retained have not had an adverse impact on the special interest and character of the protected structure.
- 7.3.2. The proposed first-floor balcony, however, would add to the amount of visual clutter on the rear façade of the building and detract from what was originally a clean and elegant facade as can be found at No. 4 South Abbey, and would set an undesirable precedent for the retention of the existing balconies on the floors overhead. Whilst the said balconies provide some outdoor amenity space for the residents of the main building, the special character of the protected structure should be given priority as

the Apartment Guidelines provide for flexibility in this regard. Accordingly, I recommend that this element of the development be omitted by way of condition.

- 7.3.3. Having regard to the L-shaped configuration of the site and the visually discreet location of the entrance gates to the rear yard relative to the protected structure and the streetscape generally, I am satisfied that the special character and interest of the protected structure would not be adversely impacted by their retention or the incorporation of a pedestrian gate. A condition that the metal gates shall be painted in a neutral colour should, however, be attached to a decision to grant permission in the interest of visual amenity.
- 7.3.4. The works to be retained involved excavations (circa 0.8m as stated) adjoining the zone of notification of a Franciscan friary (South Abbey) located to the west of the subject site but no longer extant and within the zone of notification for architectural fragments from the friary located in the adjoining property to the east.
- 7.3.5. The submitted Archaeological Assessment states local knowledge and the unearthing of masonry and human remains over time have located the extent of the archaeological site of the friary as extending from opposite the kitchen of the Devonshire Arms Hotel to the end of the modern convent schools [today's Youghal International Youth College] and east as far as the seashore. This area encompasses the subject the site.
- 7.3.6. Furthermore, in the course of works undertaken as part of the Youghal Main Drainage Scheme (2014-2018) burials were discovered in the vicinity of the subject site at Paxes Lane and on the east side of the carriageway on South Abbey; the foundation of an east-west running wall potentially associated with the friary was also discovered beneath the South Abbey carriageway.
- 7.3.7. It is evident from the foregoing that a person with archaeological expertise should have overseen the ground works associated with the development. Notwithstanding, having regard to the historical development of the site during the 19th century, the documentary research contained in the submitted Archaeological Assessment, and the scale of the excavation works undertaken, I share the view of the consultant archaeologist that it is unlikely the works impacted on the archaeological resource. I also note the Council's archaeologist did not dispute this view although she did

stress that any future ground works in this area will require archaeological assessment.

7.4. Flood Risk

- 7.4.1. The OPW flood maps for the area indicate that the subject site is located within Flood Zone C, which is defined as having a low probability of flooding. The site is in proximity to but outside Flood Zones A and B extending from Youghal Harbour, which are defined as having high and moderate probability of flooding respectively. Whilst the appellant has submitted photographs and given anecdotal evidence that tidal flooding occurs on Paxes Lane, the applicant, who has owned the subject property since 1996, indicates that the site has never been flooded to his knowledge (Q.2.18 of the planning application form refers). I also note that the Area Engineer did not raise any concerns in this regard. Based on the information before me I consider there to be insufficient grounds to refuse permission due to flood risk.

7.5. Car Parking and Traffic

- 7.5.1. The submitted planning application form indicates a total of 1 no. car parking spaces is to be provided. It is understood that this space would be in the rear yard of the property where an existing driveway is shown on the submitted ground floor annex plan drawing. I note that on-street parking is available on the east side of South Abbey which the appellant indicates is heavily subscribed by local residents.
- 7.5.2. Policy TM 12-9 of the County Development Plan states that all residential development proposals in, *inter alia*, areas within walking distance of town centres, will be subject to maximum parking standards to restrict parking provision and to achieve greater modal shift. A maximum standard of 1.25 spaces applies to apartments.
- 7.5.3. Having regard to the location of the subject site within walking distance of Youghal town centre, the total number of dwellings that would be provided on the site, and national and local policy to promote sustainable modes of transport such as walking and cycling, I am satisfied sufficient car parking would be provided in this instance and any increase in vehicular traffic arising from the development would have a negligible impact on the operation of the road network.

7.6. Other Matters

- 7.6.1. Whilst there is no record of planning permission for the conversion of the main building to 5 no. flats or the associated works, the use of the building as multiple dwellings appears to be well established. I note the Planning Officer did not pursue this matter or reference any previous enforcement action in respect of same in her assessment. As there is no substantive evidence before me to indicate the property had not already been converted into flats when the applicant purchased it in 1996, this matter should be put aside for the purposes of determining this appeal.
- 7.6.2. The demolished buttress referred to in the appeal appears to have been the gable wall of an outhouse that abutted onto the adjoining buildings at No. 6 and 7 South Abbey akin to the outhouse that ran along the southern boundary of the site. It is highly unlikely that this wall functioned as a structural support to the shared roof of No. 6 and No. 7 South Abbey although it does appear to have been tied into the end wall of No. 7. Any structural issues arising from the removal of the wall is a civil issue to be resolved between the relevant parties.
- 7.6.3. The appellant's concerns regarding health and safety practices during the construction phase of the development and compliance with building (fire) regulations are matters for the Health and Safety Authority and the building control section of the Local Authority and are outside the scope of a planning assessment.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the small scale and domestic nature of the development, its location in a serviced urban area, and the distance to the nearest European sites and the absence of known pathways to European sites, it is considered that 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. Accordingly, Appropriate Assessment is not required.

8.0 Recommendation

- 8.1. I recommend that permission be granted for the reasons and considerations set out below subject to conditions.

9.0 Reasons and Considerations

Having regard to the scale, design and location of the proposed development, and the zoning objective of the site as set out in the Cork County Development Plan 2022, it is considered that the proposed development would not, subject to conditions, seriously injure the amenities of adjoining property or the area, or have an adverse impact on the special character of the Protected Structure at No. 5 South Abbey, the Youghal Architectural Conservation Area or the archaeological site of South Abbey. 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 particulars submitted on 5th October 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 within six months of permission being granted, and the development shall be retained and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The development hereby approved shall be modified as follows:</p> <p>(a) The proposed first floor metal safety balcony shall be omitted.</p> <p>(b) The proposed vehicular and pedestrian gates on Paxes Lane shall be painted a neutral colour.</p> <p>Reason: In order to protect the character of the protected structure and the visual amenity of the area.</p>
3.	<p>Drainage arrangements for the disposal of surface water shall comply with the requirements of the planning authority for such works.</p>

	Reason: To ensure adequate servicing of the development and in the interest of public health.
4.	The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water. Reason: In the interest of public health.
5.	Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation 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.

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.

Eoin Kelliher
Planning Inspector

25th May 2023