



An
Bord
Pleanála

Inspector's Report

ABP-315368-22

Development	Permission for storey and half extension to side and domestic garage to rear. Retention permission for an upgrade of sewerage system and children's activity play area.
Location	Ratoath Road, Harlockstown, Ashbourne, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	22386
Applicant	Angela Cleary
Type of Application	Permission & Retention
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Kevin & Margaret Elliott
Observer	None
Date of Site Inspection	24 th June 2023

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.24 ha, is located on the northern side of Ratoath Road (R125), west of the M2 Motorway in the townland of Harlockstown, c. 2 km south-west of the centre of Ashbourne, Co. Meath. The appeal site is located in a rural area, outside of a settlement and forms part of a row of five detached dwellings at this location.
- 1.2. The appeal site accommodates a detached bungalow (stated floor area c. 71 sqm) which is orientated obliquely relative to the public road. The dwellings on either side are also bungalows. The appeal site has a long rear garden. A children's play structure and a number of shipping containers are located to the rear of the appeal site.

2.0 Proposed Development

- 2.1. The development as initially proposed comprised;

Permission for;

- a storey and a half extension to the side/east of the dwelling (stated floor area 235.5 sqm);
- a domestic garage to the rear of the dwelling (stated floor area 90 sqm).

Retention permission for;

- an upgraded on-site waste water treatment system.
- a children's play area/structure.

In response to a request for Further Information the applicant amended the proposal, reducing the proposed extension from storey and a half to single storey, reducing its floor area from 235.5 sqm to c.132 sqm. The floor area of the garage was also reduced from 90 sqm to 56 sqm.

Whilst not specified in the development description contained in the public notices, the proposal also includes alterations to fenestration on all elevations.

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to the decision of the Planning Authority to grant permission for the proposed development, the Planning Authority requested Further Information.

3.1.1. Further Information was requested on the 17th May 2022 as follows:

- Item 1 – Revise two storey extension to single storey extension.
- Item 2 – Reduce size of garage.
- Item 3 – Confirm if shipping containers remain on site/regularise same, and confirm planning status of gates and fences to front of site.
- Item 4 – Respond to concerns raised in third party submission.
- Item 5 - Re-advertise if Further Information is significant in nature.

3.1.2. Further Information submitted on 27th October 2022

- Item 1 – Side extension reduced to single storey (stated floor area c. 132 sqm).
- Item 2 – Floor area of garage reduced to c. 56 sqm.
- Item 3 – Confirmed that shipping containers on the site are used to the applicant's store belongings. It is the applicant's intention to remove the shipping containers once the shed is built. Gates are in place for the safety of children and will be replaced in due course.
- Item 4 – In relation to the third party submission;
 - applicant is amenable to repairing any damage to boundary fence.
 - there is no record of flooding on the site.
 - there was no chemical residue in the trail hole. Odours may be from the Elliott's septic tank.
 - gates are in place for the safety of children and will be replaced in due course.
 - the applicant has no intention of starting a B&B.
- Item 5 – Further Information deemed significant by Planning Authority.

3.2. Decision

The Planning Authority issued a Notification of Decision to GRANT permission¹ on the 5th December 2022 subject to 8 no. conditions. The following conditions are of note;

C5 – shipping containers to be removed from site within one year of grant of permission.

C6 - garage not to be used for human habitation, commercial use or industrial use.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The first report of the Planning Officer generally reflects the Further Information request. The report recommends that a condition should be attached to any grant of permission requiring the removal of the children's play structure as it overlooks adjoining property.

3.3.2. The second report of the Planning Officer notes that the proposed development accords with the Meath County Development Plan 2021-2027, and is acceptable.

The report of the Planning Officer recommends a GRANT of permission consistent with the Notification of Decision which issued.

3.3.3. Other Technical Reports

Environment Section – site is located in Flood Zone C, no objection noted.

3.4. Prescribed Bodies

Transport Infrastructure Ireland (TII) – no objection noted.

¹ The proposed development comprised permission and retention permission as per the development description contained in the public notices and the planning application form. The Notification of Decision issued by the Planning Authority refers only to permission. Condition no. 1 however refers to the development being 'constructed and retained'. In determining this appeal I have considered the proposed development as comprising retention permission and permission.

3.5. Third Party Observations

1 no. third party observation was received by the Planning Authority. The observation raises concerns in relation to the following;

- Overlooking.
- Loss of sunlight/daylight.
- Overbearing nature of the extension.
- Extension not in keeping with area.
- Overlooking from children's play area.
- Potential use of garage for commercial business.
- Entrance does not comply with TII Standards.
- Applicant has not addressed previous reasons of refusal.
- Negative impact on residential and visual amenity.
- Design of extension does not accord with Meath County Development Plan
- Raising of soil levels on the site without permission/drainage issues resulting from raising of soil levels.
- CCTV cameras positioned to overlook neighbours residence.
- Concerns regarding sub dividing of house.

A representation from an Elected Member was also received which was in support of the third party.

A subsequent observation was made in relation to the Further Information submitted by the applicant. Issues raised include the following;

- Proposal breaks building line.
- Alleged commercial activity on site not addressed.
- Play structure overlooks observer's property.
- Risk of flooding from imported soil.
- Potential for damage to occur to observer's property.
- Deficiencies in drainage information.

- CCTV overlooks observer's property.
- Garage is oversized and poorly positioned.
- Gates are out of character with the area and require permission.

4.0 Planning History

PA. Ref. 21744 – Permission REFUSED for storey and half side extension and shed. Reasons for refusal related to height/scale of proposed extension, and the absence of a rationale for the scale of the garage.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Meath County Development Plan 2021-2027 is the relevant development plan. The appeal site is zoned 'RA' (Rural Area) with 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*' under the Meath County Development Plan 2021-2027.

The provisions of the Meath County Development Plan 2021 - 2027 relevant to this assessment are as follows:

- **DM OBJ 50** – Extensions

5.2. Natural Heritage Designations

The appeal site is not located within or close to any European Site.

5.3. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended) and therefore is not subject to EIA requirements.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal by Kevin & Margaret Elliott, Harlockstown, Ashbourne, against the decision to grant permission. The grounds for appeal may be summarised as follows;

- CCTV cameras on the applicant's property overlooks the appellants' residence, impacting privacy.
- The proposed development is a disorderly form of development and is out of character with the pattern of development in the area.
- The percolation area was constructed without planning permission.
- The playground structure results in overshadowing, impacts privacy and is visually intrusive and dominant.
- Alleged on-going commercial activity.
- No sustainable drainage design for such a large-scale extension.
- Damage to boundary along appellants' property line.
- The siting and position of the extension and associated substructure and ancillary works will potentially undermine appellants' property.
- Drainage strategy in compliance with Part H of the Building Regulations was not submitted.
- The commercial gates do not comply with any rural design guide and would not be classed as exempt development.

6.2. Applicant Response

The applicant submitted a response in respect of the third party appeal submission, noting;

- Several issues raised in the appeal are not planning issues, relating to Building Regulations or civil matters.

- The appellants may not have viewed the applicant's Further Information response, notwithstanding the fact they made a submission to the Further Information.
- The proposed extension has been significantly scaled back (is now single storey and has been reduced by c. 103 sqm). The proposed garage has also been scaled back significantly, reduced by 34 sqm. This has been ignored by the appellants. The appellants' concerns have clearly been addressed, despite claims to the contrary.
- The appellants' house is significantly larger than the applicant's and despite having ample room to the side of the house they have built their house almost on the shared boundary.
- The issue raised by the appellants in respect of the proposal undermining their house is as a result of where they have built their house, and is not related to the proposal. The proposed extension will be 2.3 metres from the shared boundary and the applicant's already have a hedge and fence separating both properties. The foundation of the extension will not come into contact with the existing boundary and the boundary will not be damaged. There is no prospect of the appellants' house being undermined, this is not an issue for the Board to consider.
- The proposed extension is not out of character with the area.
- There are no windows on the side of the appellant's house facing the applicant's property. The proposal is located 2.3 metres from the closest part of the appellants' house. The rear building line of the extension has been chosen to address the potential for overlooking or overshadowing.
- Supplementary hedge planting is proposed along the boundary with the appellants' property to eliminate any privacy issues from the single storey extension.
- CCTV is for security of the applicant's property and does not capture lands outside the site.
- Overshadowing of the appellant's property will not occur.

- Any potential issues relating to unauthorised development is an enforcement function for the Planning Authority, and not an issue for the Board in assessing this appeal.
- The Planning Authority found the proposed treatment system to be acceptable and have attached a condition requiring its maintenance.
- The play structure is located c. 10 metres from the boundary with the appellants' property, with a hedge between, and does not result in overshadowing. The Planning Authority did not require the removal of this structure by condition and the Board is requested to confirm this decision.
- The shipping containers are to be used for the storage of materials relating to the construction of the extension and the Planning Authority have conditioned their removal, which is considered reasonable.
- Soakpits are proposed which are standard for addressing surface water on a domestic site. The extension covers a minimal area of the site. The M2 which is adjacent would have had a significantly greater effect on the local water table. There is no evidence of drainage issues on the site, as suggested by the appellants. Additionally, the Planning Authority have conditioned that surface water from the site does not enter the public road.
- Gates were erected for the safety of the applicant's children who play in the front and rear garden. The gates have no effect on the appellants' property and are c. 22 metres from the edge of the road. The applicant is amenable to reducing the height of the gates if required by condition.
- There is no fixed or uniform building line at this location. The proposed extension does not project forward of the front of the house on the site, or forward of the appellants' house.
- The house on the site will remain a single family home and the applicant is amenable to a condition requiring same.
- The existing house on the site is small and not fit for modern living. The legitimate issues raised by the Planning Authority have been addressed.

6.3. **Planning Authority Response**

A submission has been received from the Planning Authority stating that the issues raised in the appeal were addressed in the assessment of the planning application. The Planning Authority request that the Board uphold their decision to grant permission.

6.4. **Observations**

None received.

7.0 **Assessment**

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

- Impact on Residential Amenity
- Impacts on Visual Amenity
- Waste Water
- Other Issues
- Appropriate Assessment

7.2. **Impact on Residential Amenity**

7.2.1. The appellant raises concerns in relation to the impact of the proposed extension and children's play structure on the residential amenity of their property. The concerns raised by the appellant primarily relate to overlooking, overshadowing and overbearance. I will address each in turn.

7.2.2. Overlooking – following a request for Further Information the proposed extension was reduced from storey and a half to single storey. Windows are indicated on the side/east elevation of the proposed extension however these windows are c. 2.3 metres from the site boundary with the appellant's property, and I note that there is a 1.8 metre

high fence and mature hedging separating the properties at this location. Having regard to the design of the proposed extension, in particular the absence of first floor windows, and its relationship to the appellants' property, I am satisfied that the proposed side extension will not result in any significant overlooking of the appellants' property. The appellants also contend that the children's play structure in the rear garden results in overlooking of their property. I note that structures of this nature are common in rear gardens and as these structures are not habitable, they do not in my opinion give rise to the same degree of overlooking as an extension to dwelling. Noting the nature and location of the children's play structure relative to the appellant's property I do not consider it results in any significant overlooking.

7.2.3. Overshadowing – the extension as permitted, which is single storey and has a maximum ridge height of 5.4 metres², does not project beyond the rear wall of the appellants' dwelling. I also note that the appellants' dwelling does not have windows on its side/western elevation. I am satisfied that the design of the proposed extension and its relationship to the appellants' property is such that the proposed extension would not result in significant overshadowing of the appellant's property. Additionally, I am satisfied that the children's play structure, noting its scale, height and location relative to the appellants' property, would not result in significant overshadowing of the appellants' property.

7.2.4. Overbearance - the appellant refer to the children's play structure as intrusive. I do not consider the proposed structure to be intrusive or dominant. In my opinion, the fact that the structure is visible from the appellants' property would not in itself mean that the structure would have a significant negative impact on the amenities of the appellants' property due to overbearance or visual impact, and I do not consider that any significant overbearance will occur on the appellants' property arising from the proposed play structure.

7.2.5. In summation, having regard to the scale, design and orientation of the proposed extension, and to scale, height and position of the children's play structure relative to the appellants' property, I am satisfied that the proposed development will not result

² A shadow analysis was submitted with the planning application modelling the proposed storey and half extension. This was not updated in response to the Further Information request.

in significant adverse effects on the amenity of the appellants' property, or any neighbouring property in the vicinity.

7.3. Impact on Visual Amenity

7.3.1. The proposed garage and the children's play structure are located to the rear of the appeal property. Given the distance of the proposed garage from the public road it will not be overtly visible. The children's play structure is located to the rear of the dwelling on the appeal site and is for the most part screened from view when viewed from the public road, save for a glimpse of the structure when passing at a certain angle. I am satisfied that the garage and children's play structure would not be visually intrusive, and would not have a significant negative impact on the visual amenities of the area, including when viewed from the rear gardens of neighbouring properties.

7.3.2. In my opinion, the proposed extension is sympathetic to the existing dwelling on the site and integrates well with the site and surrounding area. Having regard to the scale and design of the proposed extension, I do not consider that the proposal would be visually intrusive nor that it would negatively impact the visual amenities of the area.

7.4. Waste Water

7.4.1. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a Locally Important Aquifer where the bedrock vulnerability is Moderate. A ground protection response to R1 is noted. Accordingly, I note the suitability of the site for a treatment system (subject to normal good practice, i.e. system selection, construction, operation and maintenance). The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

7.4.2. The trail hole depth referenced in the Site Characterisation Report was 2.2 metres. Bedrock was not encountered in the trail hole. The water table was encountered in the trail hole at a depth of 1.5 metres. The soil conditions found in the trail hole are described as comprising silt loam. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 43.22 was recorded and a P value/surface test was

subsequently carried out and a value of 29.44 recorded. I was unable to inspect the trail hole at the time of my site inspection.

7.4.3. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a septic tank and percolation area, a secondary treatment system and a soil polishing filter, or a tertiary treatment system and infiltration area. A secondary waste water treatment system and a percolation area/polishing, and a tertiary treatment system is proposed. Table 6.3 of the EPA CoP 2021 requires a minimum depth of unsaturated permeable subsoil of 0.9 metres below the base of the polishing filter for secondary treatment systems. The applicants' Site Characterisation Report indicates the water table at 1.5 metres bgl (below ground level) and states that the invert level of the distribution pipe is to be not more than 0.6 metre bgl. Based on this I note that there would 0.9 metres of unsaturated subsoil. Whilst no longitudinal section of the soil polishing filter has been submitted, based on the description of the system I am satisfied that the proposed system will provide the required depth of unsaturated subsoil to treat effluent on the site. I also note that a tertiary treatment system is proposed. Based on the site layout drawing submitted I note that the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021. The Site Characterisation Report submitted with the application concludes that the site should be suitable for treatment of waste water.

7.5. **Other Issues**

7.5.1. Commercial Activity

The appellant raises issues in relation to the use of the site for commercial purposes. I have assessed the proposed development based on the development as applied for, including a domestic extension and domestic garage. Should the Board be minded to permit the proposed development I recommend that a planning condition is attached restricting the use of the extension and dwelling as a single dwelling, and that the use of the garage structure is ancillary to the dwelling on the site.

7.5.2. Works affecting third party property

The appellants raise concerns in relation to the impact of the proposed development on their property, specifically the potential for the proposed extension to undermine

their property. In response, the first party note that the proposed extension will be 2.3 metres from the shared boundary, that the foundation of the extension will not come into contact with the existing boundary, that the boundary will not be damaged, and that there is no prospect of the appellants' house being undermined. I am satisfied that the issues raised in this regard are civil issues to be resolved between the applicant and appellant having regard to the provisions of Section 34 (13) of the Planning and Development Act, 2000, as amended, and as such are outside the scope of this appeal.

7.5.3 Shipping Containers

Condition no. 5 of the Planning Authorities Notification of Decision to Grant Permission requires the removal of shipping containers from the site within one year of the grant of permission. The development description contained in the public notices does not refer to either permission of retention of shipping containers on the site, and on this basis it is not in my opinion appropriate to attach a condition requiring the removal of shipping containers from the appeal site. I note that any issues regarding unauthorised structures within the site is a matter for the enforcement section of the Planning Authority.

7.5.4 Gates

The appellants contend that the gates, which they describe as commercial, do not comply with any rural design guide and would not be classed as exempt development. The development description contained in the public notices does not refer to gates and such consideration of the gates is outside the scope of this appeal in my opinion.

7.5.5 Drainage

The appellants raise concerns in respect of the absence of sustainable drainage design for the extension, which they contend is significant in scale. I note that soakways are indicated to the rear of the site. I also note that the site is relatively free draining based on the Site Characterisation Report submitted. I am therefore satisfied that the drainage proposal for the extension is acceptable.

7.5.6 Compliance with Building Regulations

The appellants note that a drainage strategy in compliance with Part H of the Building Regulations was not submitted. I note Section 7.8 of the Development Management -

Guidelines for Planning Authorities (2007) which states that it is inappropriate to deal with matters which are dealt with under other controls, unless there are particular circumstances (e.g. the matters are relevant to proper planning and sustainable development, and there is good reason to believe that they cannot be dealt with effectively by other means). Having regard to the forgoing, I am satisfied that this issue of compliance with Building Regulations is outside the scope of this appeal.

7.5.7 Development Contributions

The adopted Meath County Council Development Contribution Scheme 2016, provides that domestic/house extensions shall be exempt from development contributions, and as such the proposed extension would not attract a development contribution, should the Board be minded to grant permission for the proposal. I note that the Development Contribution Scheme is based on residential use and non-residential use, and I note that under residential use, contributions are calculated based on each residential unit. Having regard to the absence of reference in the Development Contribution Scheme to domestic garages, and the reference to 'residential unit' as a criteria on which development contributions are based, I consider that domestic garages would not attract a development contribution. Additionally, I note that domestic garages, which are typically used for storage and are ancillary to the residential use of the dwelling, could therefore be considered analogous with an extension to a dwelling, and when permitted are conditioned in this manner. The Development Contributions, Guidelines for Planning Authorities 2013, provide that no exemption or waiver should apply to any applications for retention of development. However, given that the Meath County Council Development Contribution Scheme does not specifically refer to the provision of children's play structures/or similar, or waste water treatment systems, I consider it reasonable that these elements of the proposal would not attract a development contribution, should the Board be minded to grant retention permission for the proposal.

7.6. **Appropriate Assessment**

Having regard to the nature and limited scale of the proposed development and the lack of a hydrological or other pathway between the site and European sites, it is considered 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 European site.

8.0 Recommendation

- 8.1. Having regard to the above it is recommended that retention and permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Meath County Development Plan 2021-2027, to the prevailing pattern and character of existing development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity 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 plans and particulars submitted to the Planning Authority on the 27th 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 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>
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2.	<p>The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension 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>
3.	<p>The garage structure shall be used solely for use incidental to the enjoyment of the main dwelling and shall not be sold, rented or leased independently of the main dwelling and shall not be used for the carrying on of any trade, business or commercial/industrial activity. The structure shall not be used for the purposes of independent habitation.</p> <p>Reason: In the interest of clarity.</p>
4.	<p>(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the Planning Authority on the 25th March 2022, and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Within three months of a grant of permission, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system 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 EPA document.</p> <p>Reason: In the interest of public health.</p>
5.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the Planning Authority for such works and services.</p>

	Reason: In the interest of public health.
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

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.

Ian Campbell
 Planning Inspector

25th June 2023