



An
Bord
Pleanála

Inspector's Report

ABP-315765-23

Development	Change of use from garage to habitable space ancillary to dwelling
Location	16 Castle Street, Trim, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	221497
Applicant(s)	Thomas O'Byrne
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Thomas O'Byrne
Observer(s)	None
Date of Site Inspection	14 th June 2023
Inspector	Bernard Dee

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1.0 Site Location and Description

- 1.1. The appeal site is located to the rear of 16 Castle Street which is in close proximity to the entrance to Trim Castle but which does not affect its setting. 16 Castle Street is an end of terrace, two storey, three bay dwelling with a large two storey annex to rear.
- 1.2. The appeal site is located to the rear of No. 16 and is accessed via a metal gate from Castle Street. The structure to which this appeal relates is currently in use as a garage ancillary to the main dwelling but was formerly in use as a dwelling judging from the extant architectural features present.
- 1.3. During the site visit on 14th June 2023 access to the appeal site was possible and it was noted that the main dwelling at 16 Castle Street is currently undergoing renovation works.

2.0 Proposed Development

- 2.1. The drawings submitted with the planning application indicate a change of use from ancillary garage to an ancillary habitable space through the construction of a living area, kitchen, bathroom and one bedroom into the current structure on site and refurbishment of the fabric, new doors and windows, connection to services and all associated site works.
- 2.2. There appears from the drawings to be no change in the height, length or width of the garage structure in connection with works to make the structure habitable. The height is c. 5m, length c.10m and width is c. 6m.
- 2.3. The site area is stated to be 0.0322ha and the GFS of the proposed habitable unit is stated to be 42m².

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was refused on 17th January 2023 for one reason:

The form of the proposed domestic garage conversion to habitable use, which does not provide for direct access to the existing dwelling and does not form an integral part of the main dwelling unit capable of reintegration for single family use, is not in compliance with Section 11.5.24 of the Meath County Development Plan 2021-2027, s to the rear of 16 Castle Street which is specifically the following provisions of objective "DM OBJ 49: The flat shall form an integral part of the structure of the main house with provision for direct internal access to the remainder of the house, i.e. not detached". The proposed development is therefore considered to materially contravene said objective of the Development Plan, be contrary to the proper planning and sustainable development of the area and would set an undesirable precedent for similar type development in the future.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report quotes Section 11.5.24 of the Development Plan provisions in Chapter 11 Development Management Standards (see Paragraph 5.0 of this Inspector's Report) namely, the requirements in relation to family flat development in terms of occupancy, integration with the main house, no subdivision of the garden space and no sub-letting of the flat. Section 11.5.25 of the Development Plan is also referenced in the Planner's Report and sets down requirements for extensions to dwellings in urban and rural areas.

As the proposed conversion did not satisfy these criteria the Planner's Report recommended a refusal of permission.

The Planner's Report notes that neither AA nor EIA is required in respect of the proposed development.

3.2.2. Other Technical Reports

The Transport Department, Conservation Officer and Water Services Department had no objection to the proposed development subject to appropriate conditions being applied.

3.2.3. Prescribed Bodies

Irish Water had no objection to the proposed development subject to appropriate conditions being applied.

3.2.4. Observations

No Observations on file.

4.0 **Planning History**

4.1. On the Appeal Site

No planning history at the appeal site is noted in the Planner's Report on file.

4.2. In the Vicinity of the Site

No relevant planning history in the vicinity of the appeal site is noted in the Planner's Report on file.

5.0 **Policy and Context**

5.1. Development Plan

Meath County Development Plan 2021-2027 is the statutory plan for the area within which the appeal site is situated and set down below are the relevant Development Plan policies and objectives in relation to this appeal.

The site is zoned B1- Commercial/Town or Village Centre

Objective: To protect, provide for and/or improve town and village centre facilities and uses.

Guidance

Town and Village centres are characterised by a concentration of shops, services, meeting points, and places of employment. Centres in the upper tier of the settlement hierarchy have a more comprehensive range of shops and services than smaller settlements. The majority of new commercial and retail uses will be accommodated on B1 lands in towns and villages. Whilst the principle of a retail outlet on town/village centre lands is acceptable in principle, the size and scale of any such development should be reflective of the role and function of the town and village in the settlement hierarchy. Such developments will be assessed against the relevant policies and objectives in the Retail Strategy in Appendix 4, retail policy in Chapter 4 of this Plan, the DECLG 'Guidelines for Planning Authorities Retail Planning' (2012) and Section 6 of this Chapter. The primary land use in B1 zones is employment generating, service and retail provision. In order to achieve balanced development and create vibrant urban communities, residential use can also be considered on these lands. In order to ensure the delivery of commercial uses commensurate with the status of the settlement the percentage of residential development in B1 zones shall generally not exceed 30 % of the quantum of a development site in any development proposal in Key Towns, Self- sustaining Growth Towns, Self Sustaining Towns. Exceptions may be facilitated on a case by case basis.

Residential use is deemed a 'Permitted Use' within B1 zoning objective areas.

11.5.24 Family Flat Extensions

Family flats (often known as granny flats) are a way of providing additional accommodation with a level of independence for an undefined temporary period of time. Family flats allow for semi-independent accommodation for an immediate family member (dependent on the main occupants of the dwelling). Applications for family flats will be considered favourably subject to criteria set out in the relevant policy set out below.

DM POL 15: The creation of a custom-built 'family flat' to be occupied by a member of the occupant family with a housing need is generally acceptable subject to site suitability and compliance with DM OBJ 49.

DM OBJ 49: All applications for family flat development shall comply with the following criteria:

- The flat shall form an integral part of the structure of the main house with provision for direct internal access to the remainder of the house i.e. not detached;
- The flat shall not have a separate access provided to the front elevation of the dwelling
- There shall be no permanent subdivision of the garden/private amenity space;
- The flat shall remain in the same ownership as that of the existing dwelling on site. In this regard, the flat shall not be let, sold or otherwise transferred, other than as part of the overall property;
- The design proposed shall enable the flat to easily fully revert to being part of the original house when no longer occupied by the family member(s);
- If the site is not connected to public mains, the existing wastewater treatment system on site must be capable for any additional loading from the flat, and if not, proposals should be submitted to accommodate the additional loading.

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.

The appeal site is located in an Architectural Conservation Area and within an Area of Archaeological Interest.

5.2. Natural Heritage Designations

The nearest natural heritage designated sites are the River Boyne and River Blackwater SAC (002299) and the River Boyne and River Blackwater SPA (004232) which are located approximately 175m to the SW of the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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. The relevant planning grounds of the First Party appeal prepared by TTW Architectural Design, are, in summary, as follows:

- The 42m² garage structure was formerly in use as a dwelling and its conversion to habitable space is to accommodate the appellant's retirement needs and will be used for older family member and visitors and is wheelchair accessible.
- The reason for refusal of the conversion of the garage to habitable space is that as a detached structure the development would be contrary to the requirements of Section 11.5.24 of the Development Plan – DM OBJ 49.
- However, to link the garage to the main house would involve significant expenditure on the part of the applicant and would reduce the aesthetic value which the conversion will bring to the garage structure.
- In addition, having a separate habitable space from the main house is a functionally better solution in terms of noise and privacy in a multi-generational family than an extension to the main house.
- While the proposed conversion does not strictly comply with the relevant Development Plan policies and objective in relation to family flats, the proposal does involve the reuse of an existing vacant building for residential purposes.

6.2. Applicant Response

Not applicable.

6.3. The Planning Authority state that all issues raised by the appellant were had regard to during the determination of this application by Meath County Council and no additional comments are put forward in the response.

6.4. Observations

No Observations received in relation to this appeal.

6.5. Further Responses

Not applicable.

7.0 Assessment

Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

The main issues, therefore, are as follows:

- Principle of Development
- Development Plan standards.
- Impact on visual and residential amenity.
- Access and parking.
- Material contravention of the Development Plan.
- AA Screening.

7.1. Principle of Development

I note that residential use is deemed to be a 'Permitted Use' within the B1 zoning objective area and that the garage was formerly in residential use. Having regard to these points and to the general objective to increase the residential density of the core areas of cities, towns and villages, I consider that in principle the conversion of the garage to habitable space is acceptable in principle.

7.2. Development Plan Standards

7.2.1. The Planning Authority reason for refusal cites Development Plan objective DM OBJ 49 and the non-compliance of the proposed development with said objective, i.e. connectivity with the main house and capability of being reintegrated into single family use, i.e. not a detached habitable structure.

7.2.2. However, my interpretation of Development Plan objective DM OBJ 49 is that it refers to new build only and not to the conversion of existing detached structures as per DM POL 15: The creation of a custom-built 'family flat' to be occupied by a member of the occupant family with a housing need is generally acceptable subject to site suitability and compliance with DM OBJ 49 [emphasis added].

7.2.3. Objective DM OBJ 49 could also be interpreted as the Planning Authority has to mean that the creation of all family flats includes conversion of existing detached structure. In this instance however I believe that having regard to the ambiguity of this Development Plan objective, the architectural history of the structure as formerly being in residential use, and to the desire to bring vacant building back into residential use, that the Board should adopt a positive attitude to the proposed development and consent to the conversion proposal.

7.3. Impact on Visual and Residential amenity.

7.3.1. The potential of the visual impact of a refurbished structure at the appeal site is mitigated by the set-back from Castle Street and the presence of a tall gate at the street frontage. As the proposed dwelling unit is functionally (if not physically) integrated with the main dwelling on site, the issue of adverse impact on residential amenity should not arise in this instance.

7.4. Access and Parking

7.4.1. The existing access appears to not constitute a traffic hazard given good sightlines and the town centre location of the site where reduced speeds are in operation. There is sufficient space within the appeal site to accommodate one parking space and leave sufficient amenity space for garden/landscaped area for the enjoyment of the occupants of the converted garage.

7.5. Material Contravention of the Development Plan

7.5.1. The Planning Authority have refused permission for the garage conversion as the proposed development, being detached from the main dwelling, is considered to materially contravene objective DM OBJ 49 of the Development Plan. In cases where the Board may be minded to grant permission where a Planning Authority has refused permission on the basis of a material contravention of the Development Plan, the provisions of Section 37 of the Planning and Development Act 2000 (as amended) apply.

7.5.2. Section 37(2)(a) states that "Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

7.5.3. (b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.5.4. (c) Where the Board grants a permission in accordance with paragraph (b), the Board shall, in addition to the requirements of section 34(10), indicate in its decision the main reasons and considerations for contravening materially the development plan”.

7.5.5. Clearly parts (i), (iii) and perhaps (iii) do not apply to the appeal before the Board but I am of the opinion that the provision of part (ii) apply to the proposed conversion. As outlined above, my interpretation of objective DM OBJ 49 of the Development Plan is that the requirement for a detached family flat capable of being internally accessed from the main house and of being reintegrated with the main dwelling, relates to new build developments and not to existing detached structures.

7.5.6. The Planning Authority are of the opinion, as evidenced by the refusal of permission in this instance, that objective DM OBJ 49 applies to new build and existing structures. However, given the ambiguity present in this object, I believe that the Board can rely on Section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended) if it is minded to overturn the Planning Authority refusal in this case.

7.6. AA Screening

Having regard to the relatively minor development proposed within an existing housing estate and the fact that there are no European sites in the vicinity of the appeal site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that retention permission be granted for the reasons and considerations set out below and subject to the conditions set down hereunder.

9.0 Reasons and Considerations

Having regard to the provisions of the Meath County Development Plan 2021-2027, including the zoning objective for the site B1- Commercial/Town or Village Centre - To protect, provide for and/or improve town and village centre facilities and uses; it is considered that the proposed development would not materially contravene Development Plan Objective DM OBJ 49, would not injure the visual or residential amenities of the area, or of property in the vicinity, would not, by virtue of the existing access constitute a traffic hazard and would provide an acceptable standard of amenity for future residents. 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 carried out and completed in accordance with the plans and particulars lodged with the application on 17th November 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 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>Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The existing dwelling and proposed family flat in the converted garage shall be jointly occupied as a single residential unit and the converted garage 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>
4.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>

6.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 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>
7.	<p>The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</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.

Bernard Dee
Planning Inspector

20th June 2023