



An
Bord
Pleanála

Inspector's Report ABP-316098-23

Development

1. Divide the property into two separate dwellings.
2. Permission to provide connections to existing services for the proposed dwelling.
3. Retention for the demolition of boundary wall and relocation of side entrance gate.
4. Retention for constructed boundary wall separating both properties.
5. Retention for car parking area, access pathway and pedestrian entrance.

Location

No.2 Bridge House, Aughrim, Co Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

23/18

Applicant(s)

Patrick Byrne

Type of Application

Permission and Retention

Planning Authority Decision	Refused
Type of Appeal	First
Appellant(s)	Patrick Byrne
Observer(s)	None
Date of Site Inspection	16 th June 2023
Inspector	Louise Medland

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1.0 Site Location and Description

- 1.1. The site is located at no. 2 Bridge House, Aughrim, Co Wicklow. The site is located adjacent to and south of the River Aughrim, east of the Aughrim Bridge. Adjacent to the west of the site is no.1 Bridge House a semi-detached dwelling connected to the appeal site and to the east an agricultural field. The immediate area is characterised by residential dwellings, two storeys in nature with front and rear gardens. East along Fogartys Terrace single storey dwellings line the southern side of the road with their associated gardens located on the northern side between the road and the River Aughrim.
- 1.2. No.2 Bridge House appears on the National Inventory of Architectural Heritage (Reg no. 16320036) constructed around 1890.
- 1.3. The site itself is occupied by a one and a half storey semi-detached dwelling (dwelling 1) and a single storey building (dwelling 2) north of the dwelling and south of the River Aughrim. A 2m high concrete block wall separates the two properties. Dwelling 2 is accessed via an entrance on the eastern boundary wall and a yard area. A garden area is located on the northern side of the building adjacent to the River Aughrim.
- 1.4. For the purpose of this report the dwellings will be referred to as set out below;

No.2 Bridge House – dwelling ‘A’

No.2a Bridge House – dwelling ‘B’

2.0 Proposed Development

- 2.1. The proposal is comprised of five elements;
 1. Divide the property into two separate dwellings.
 2. Permission to provide connections to existing services for the proposed dwelling.
 3. Retention for the demolition of boundary wall and relocation of side entrance gate.
 4. Retention for constructed boundary wall separating both properties.
 5. Retention for carparking area, access pathway and pedestrian entrance

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 3rd March 2023 Wicklow County Council issued a notification of a decision to refuse permission for the retention of the development for the following reasons:

- The site is located on lands zoned (RE) existing residential where it is the objective to protect, provide and improve residential amenities of existing residential areas. The proposed subdivision would significantly reduce the private open space of the existing dwelling, would impact negatively on the residential amenities of the property, would be out character with the existing pattern of development in the area, would set an unacceptable precedent for similar development and would therefore contrary to the proper planning and development of the area.
- The proposed development would endanger public safety by reason of serious traffic hazard because inadequate sightlines currently exist at the site entrance and the proposed development would exacerbate the existing traffic hazard.
- Having regard to the location of the proposed dwelling within an existing floodplain which is identified as having a High probability of flooding as set out in section 3.6 of "The Planning System and Flood Risk Management, Guidelines for Local Authorities", November 2009 and the fact that no justification has been submitted demonstrating the development is necessary on grounds of wider sustainability through the Justification Test outlined in section 3.9 of the guidelines, it is considered that the proposed development is contrary to the "The Planning System and Flood Risk Management, Guidelines for Local Authorities", would set an undesirable future precedent for similar types of development on floodplains, would be prejudicial to public health, and would be contrary to the proper planning and sustainable development of the area.

3.2 External Reports

Irish Water – No Objection

3.3 Third Party Observations

The Planning Authority did not receive any observations or submissions in relation to the application.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Wicklow County Council Planning Report forms the basis for the decision. The report provides a description of the site and subject proposal, it sets out the planning history of the site and surrounds, summaries the observation on the planning file and sets out the policy that is relevant to the development proposal.

3.2.2. Other Technical Reports

None

4.0 Planning History

- ABP Ref: PL27.247385 Retention of alterations to outbuilding, associated works and conversion of same to habitable place, permission for single storey extension - Grant permission with conditions – Conditions 2 and 4 of PA Ref: 16/464 were deemed appropriate. Condition 3 was deleted.
- PA Ref: 16/464 – Retention of alterations to outbuilding, associated works and conversion of same to habitable place, permission for single storey extension - Grant permission with conditions.
- PA. Ref. 15/1151– Permission was refused for the retention of alterations to the existing outbuilding and associated works and conversion of same to a habitable building located to the rear.

- PA. Ref. 13/8091 – Permission was granted for alterations to existing building including change of use from commercial to domestic use of one section of the building.

5.0 Policy and Context

5.1. Development Plan

5.2. Wicklow Development Plan 2022 – 2028 (WDC 2022-2028)

- Settlement Strategy
- Aughrim – Level 5 Settlement – Small Towns Type 1
- Development and Design Standards Appendix 1

Aughrim Town Plan 2022-2028

- The site is zoned 'RE' existing residential.
- Flood Zone A

5.3. National Policy

- Planning System and Flood Risk Management, Guidelines for Planning Authorities 2009

5.4. Natural Heritage Designations

5.5. There are no designated natural heritage sites in the vicinity. However, I note the site lies approximately 3.59km west of a proposed natural heritage area: Avoca River Valley.

5.6. EIA Screening

5.7. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement

for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- Private Open Space.
- Private open space for the main dwelling house 'A' has been reduced to 58m² which is well above the minimum 25m² required when a house is extended. As this house has been extended under planning permission 13/8091 therefore minimum standards for open space have not been breached.
- Higher than adequate private open space has been unfairly and incorrectly compared to adjacent properties.
- Existing pattern of development is mixed, neighbouring property has a very restricted private open space.
- Aughrim holiday cottages have little to no open space.
- Fogartys cottages have little or no private space to the rear but rather plots of land to the front across the road and some of these have houses constructed on them.
- Development not out of keeping as the area has a wide diverse build pattern.

Traffic Issues

- Existing entrance in use for over 100 years and there are no incidents or accidents recorded to date.
- Traffic hazards/public safety concerns have been over exaggerated.

Flooding possibilities

- The buildings are already in existence for approximately 130 years and therefore there is no additional impact in relation to flooding.
- Responses to previous applications on the site made no reference to flood risk.

- No reports of flooding
- Understands flood risk is a factor for new development but it is not relevant for this application.
- Reference in PA report states it would not increase the likelihood of flooding in the area, refusal reason contradicts this.

6.2. Planning Authority Response

- None.

6.3. Observations

- None

6.4. Further Responses

- None.

7.0 Assessment

7.1. Principle of the Development

7.2. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- The principle of the development seeking to be retained and its associated elements
- Traffic hazard
- Flood Risk

7.3. I note Appeal decision PL27.247385 for the retention of alterations to outbuilding, associated works and conversion to habitable use and extension, was granted planning permission subject to conditions by the Planning Authority. The appellant appealed the conditions attached, including condition 4 which required kitchen facilities in what is dwelling 'B' to be removed to ensure that the converted unit could

not be used as a separate dwelling house. An Bord Pleanála deemed condition 4 to be warranted.

- 7.4. Whilst the site is located within an area zoned as 'RE: Existing Residential' in the Wicklow County Development Plan 2022-2028. CPO 6.21 states '*In areas zoned 'Existing Residential' house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted*'. The proposal is not considered to be an infill but a standalone dwellinghouse unit.
- 7.5. The proposed subdivision of the site and dwelling would result in back land development, with dwelling 'B' being hemmed in within a restricted site, outlook onto a 2.2m concrete block wall approximately 2.7m from the front door and with no outlook to the public realm, accessed via a gable entrance and does represent a quality residential environment.
- 7.6. The subdivision of the plot has substantially reduced and provides inadequate private amenity space available to dwelling 'A' providing approximately 52.04m². This falls short of the minimum open space standard 60-75m² for a 3-4 bedroom as set out in Appendix 1 – Development and Design Standards. This is further evidenced upon site inspection, due to the restricted nature of the site, that children's play equipment (trampoline) is located in the adjacent field outside the curtilage of the dwelling.
- 7.7. Whilst dwelling 'B' provides an approximate floor space of 48.53m² and approximately 104.05m² private amenity space to the rear between the building and the River Aughrim, exceeding the minimum standards, it does not override the fact the additional dwelling is hemmed in, in back land development with no outlook and detrimentally impacts on the residential amenity of dwelling 'A' as well as not providing a quality residential environment for occupants of dwelling 'B'.
- 7.8. The appellant refers to dwellings along Forgartys Terrace, in respect of their associated private amenity space being located opposite and dwellings along St Martins Drive. Fogartys Terrace is a historical layout, characteristic of this row of dwellinghouses and nevertheless provides private amenity space for these dwellings. Whilst those dwellings on St Martins Drive differ in terms of quantity of amenity space these dwelling were considered under differing planning policy context. The appeal

must be considered under the prevailing planning policy. The appellants argument in this respect is unfounded.

7.9. It is noted in the appellants submission to the LA refers to housing need for affordable and usable accommodation. Whilst housing need is acknowledged, it does not override the requirement for the delivery of quality residential environments for both existing and prospective occupants.

7.10. I deem the subdivision of the property into two separate dwellinghouse units is unacceptable and does not provide a quality residential environment for the occupants of either dwellings.

7.11. The unacceptability of the subdivision of the property also renders the below four elements of the appeal unacceptable.

- Permission to provide connections to existing services for the proposed dwelling – Connection for the retention of the additional dwelling is not required as the principle of subdivision of the property is unacceptable.
- Retention for the demolition of boundary wall and relocation of side entrance gate – Side entrance for an additional dwelling is not required as the principle of subdivision of the property is unacceptable.
- Retention for constructed boundary wall separating both properties – retention of the constructed boundary wall is not required as the principle of subdivision of the property is unacceptable. The wall should be removed, and the dwelling 'B' returned to ancillary use associated with dwelling 'A'.
- Retention for carparking area, access pathway and pedestrian entrance – Additional car parking and separate pedestrian access and pathway is not required as the principle of subdivision of the property is unacceptable.

7.12. **Traffic Hazard**

7.13. The appellants case states that the access has been in situ for over 100 years with no incidents or accidents on record, however no evidence to support this claim has been provided. It also raises a previous planning permission 13/8091 from a shop to a dwellinghouse, which reduced the number of vehicles. This may have been the case at the time of the 2013 application, however the appeal before me is in respect of residential use and the provision of an access and parking to serve an additional

dwelling. Therefore, the addition of a dwelling at this site, albeit requiring 1 parking space as per the standards, is still deemed to be an intensification of an already below standard access.

7.14. In respect of visibility splays, those to the west of the access are deemed to be in situ, however the parking of cars along the frontage of St Martins drive, will inevitably restrict views when exiting the proposed parking, however I do not consider this to be to an unacceptable degree. The visibility splay to the south-east is restricted to an unacceptable degree by the presence of a stone wall, flowerbed and tree trunk and road signage.

7.15. I conclude that it is this lack of a required visibility splays combined with the intensification to serve an additional dwelling that renders the access unsafe and presents a serious traffic hazard to road users.

7.16. **Flooding**

7.17. The proposed use of dwelling 'b' as residential dwellinghouse in a designated flood zone A is deemed a highly vulnerable land use as per para. 4.22.2 of Appendix 8 – Strategic Flood Risk Assessment.

7.18. Section 4.5.1, paragraph 2 of Appendix 8 – Strategic Flood Risk Assessment, relates to minor development, including extensions to houses, rebuilding of houses and most changes of use of buildings. Footnote 4, in respect of 'most changes of use' specifies changes of use that do not increase the level of vulnerability of the development. The proposal would change the use of ancillary outbuildings to a highly vulnerable residential use.

7.19. Section 4.5.1, paragraph 3 of Appendix 8 – Strategic Flood Risk Assessment, states, *'It should be noted that for residential buildings within Flood Zone A or B, bedroom accommodation shall not be permitted at basement or ground floor'*. The change to a highly vulnerable use combined with the provision of ground floor bedroom accommodation is considered to be inappropriate.

7.20. The appellants case states that as the buildings have been in situ for approximately 130 years the flood risk with no record of flooding and is not exacerbated by the development and that it is not relevant for this application as it refers to 'new' development. It also notes that previous applications on the site did not refer to flood risk. Whilst this may have been the case, flood risk information and policies have

evolved over time and the application subject of this appeal considered the flood risk in line with the relevant prevailing planning policy. The appellant refers to LA report and contradiction between the report and the refusal reason. It appears that the appellant has not had view of a supplementary report signed on the 1st March 2023 and 3rd March 2023 which provides further assessment to the flood risk and the recommendation of an additional refusal reason. This supplementary report is scanned and available to view on the Wicklow County Councils e planning website (page 9 of the LA report).

7.21. Policy CPO 14.09 of WDP 2022-2028 sets out the requirements for '*new developments or significant alterations/extension to existing developments in an area at risk of flooding*'. Whilst the appellant argues that the buildings are existing and that the policy doesn't not apply in this instance, I concur with the Local Authority, that as set out in the above policy, Appendix 8 - Strategic Flood Risk Assessment. and the Planning System and Flood Risk Management, Guidelines for Planning Authorities 2009 that the policy and the requirement for a Flood Risk Assessment and a Justification test is required given the proposed change of use is to a more vulnerable level with bedroom accommodation at ground floor level to be submitted by the applicant. In the absence of this information, the appellant has failed to demonstrate and justify that a new residential unit a highly vulnerable use is appropriate for a designated flood zone A. I conclude the LA's refusal reason in respect of flood risk warranted.

7.22. **Appropriate Assessment Screening**

7.23. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 **Recommendation**

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the retention of

all elements of the development for the reasons and considerations set out below. I recommend that the site be reinstated to its previous state within 8 weeks of the date of this decision.

9.0 Reasons and Considerations

- The subdivision of no.2 Bridge House to provide an additional dwelling would significantly reduce the provision of private amenity space for no.2 Bridge House resulting in adverse impact on the residential amenity of the occupants. The proposed dwelling would have no outlook to the public realm.
- The proposal is out of keeping with the pattern of development in the area and if permitted would result in the setting of an undesirable precedent for similar scale developments.
- Due to inadequate provision of visibility splays and the intensification to serve an additional dwelling of an already below standard access, the proposal poses a serious traffic hazard at the site entrance.
- The proposed dwelling use with bedroom accommodation at ground floor level in a designated flood zone A is incompatible at this location and the appellant has failed to provide a flood risk assessment or justification to suggest otherwise.

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 judgment in an improper or inappropriate way.

Louise Medland
Planning Inspector

8th July 2023