



An
Bord
Pleanála

Inspector's Report

ABP-316909-23

Development	First floor extension over the existing bay window at the rear of the house.
Location	Avoca Lodge (formerly the Site Office), Harbour Village, Circular Road, Dunmore East, County Waterford.
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	22933
Applicant(s)	Simon Elmes
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Theresa and Conor Spain
Observer(s)	None on file
Date of Site Inspection	29 th September 2023
Inspector	Sarah Moran

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Waterford City and County Development Plan 2022-2028.....	5
5.2. Natural Heritage Designations	6
5.3. EIA Screening	7
6.0 The Appeal	7
6.1. Grounds of Third Party Appeal.....	7
6.2. Applicant Response to Third Party Appeal.....	8
6.3. Planning Authority Response	10
6.4. Observations	11
6.5. Further Responses.....	11
7.0 Assessment.....	11
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13
10.0 Conditions	13

1.0 Site Location and Description

1.1. The site, stated area 0.02 ha, is an existing 1.5 storey house known as Avoca Lodge, which is located within the Harbour Village holiday home development within the built up area of Dunmore East, Co. Waterford. The house was originally the site office for Harbour Village and is adjacent to the access from Circular Road. It is at a lower level than the road.

2.0 Proposed Development

2.1. The proposed development comprises a first floor extension over an existing ground floor bay window on the eastern elevation of the house, to create an additional 14.8 sq.m., also associated works to the roof in natural slate with new velux rooflights and ancillary works. The proposed extension overhangs an existing ground floor bay window and is supported by columns.

2.2. The applicant submitted additional particulars to the planning authority on 8th March 2022, on foot of a Request for Further Information (RFI), including:

- Details of landscaping at ground level;
- Revised drawings such that the roof overhang is reduced;
- Photographs of the development site and adjacent houses;
- See details of planning comment submitted in section 6.2 below.
- Revised public notices were issued on 14th March 2023 as the further information was deemed to be significant by the planning authority.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Waterford City and County Council (WCCC) issued RFI on 15th December 2022 in relation to the following matters:

- It appears to the planning authority that the patio area at the southern part of the application site and which was expressly omitted by condition no. 1(a) of 18/241

has been constructed. The applicant is invited to address this issue with revised proposals as appropriate.

- It also appears to the planning authority that there are proposed works which are located outside the indicated red line boundary of the application site and the applicant is invited to address this issue with revised proposals as appropriate. No part of any structure should over-hang beyond the red line boundary of the application site.
- The planning authority has serious concerns in relation to the proposed first floor extension, given its proximity to the neighbouring property to the west, in terms of potential for negative impact on residential amenity by way of overlooking and being an imposing and over-dominating presence. The applicant is therefore invited to submit revised proposals which include for revised design proposals which address any negative impact on any neighbouring property and omit the first floor structure overhanging the ground floor bay window with supporting columns / poles.

3.1.2. WCCC issued a notification of a decision to grant permission on 5th April 2023, subject to seven no. conditions. None of the conditions imposed involved any significant changes to the development.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Report of WCCC Executive Planner, 14th December 2022. Recommends RFI.

Habitats Directive Project Screening Assessment, 14th December 2022. Concludes that no Appropriate Assessment issues arise in this case, no likelihood of significant effects on any Natura 2000 site.

Second report of Executive Planner, 5th April 2023, considers that issues raised in the RFI have been addressed satisfactorily and recommends permission.

3.2.2. Other Technical Reports

None on file.

3.3. Prescribed Bodies

3.3.1. None on file.

3.4. Third Party Observations

3.4.1. The planning authority received submissions from the above named third party appellants, which objected to the development on grounds similar to those raised in the grounds of appeal.

4.0 Planning History

4.1. Reg. Ref. 18/241

4.1.1. Permission granted to John Stewart for alterations to the development granted under 14600132 comprising alterations to the ground floor extension to the south to bathrooms, and the extension of the building over to create an extended living area, total of 25 sq.m, also a small boiler and fuel store extension at ground floor (4.2 sq.m) and ancillary works.

4.2. Reg. Ref. 14600132

4.2.1. Permission granted to John Sewart for ground floor extensions, alterations internally and externally, ancillary site works, and conversion from site office to a single habitable dwelling.

4.3. Reg. Ref. 021349

4.3.1. Permission granted to Bagilt Limited for a two storey rear addition, converting the rear ground floor and first floor into a dwelling and the front ground floor remaining as administration office for the holiday houses.

5.0 Policy Context

5.1. Waterford City and County Development Plan 2022-2028

5.1.1. The development site is located within the settlement of Dunmore East and is zoned Existing Residential with the stated objective to provide for residential development and protect and improve residential amenity.

5.1.2. Section 4.9 of development plan Volume 2 Development Standards provides guidance on residential extensions. It states:

The design and layout of extensions to houses should have regard to the amenities of adjoining properties particularly as regards sunlight, daylight and privacy. The character, scale and form of the existing building and site should be respected.

Development plan Objective DM 11 applies:

Extensions should:

- *Respect and follow the pattern of the existing building as much as possible.*
- *Where contemporary designs are proposed, proposals should not detract from the visual amenities of the main dwelling or neighbouring properties.*
- *Extension works should not encroach, overhang or otherwise physically impinge third party properties.*
- *Proposals should be designed in such a way as to eliminate overshadowing or overlooking of adjoining property.*
- *Avoid additional surface water runoff arising from the site.*

5.2. Natural Heritage Designations

5.2.1. The following distances to designated sites are noted, having regard to the WCCC Habitats Directive Screening Assessment on file:

- 2.31 km south of the Killawan -251 Wetlands Area
- 25.23 km south east of the Clodiagh (Portlaw) Fresh Water Pearl Mussel Catchment Area
- 4.87 km east of the Tramore Back Strand SPA (site code 004027)
- 3.39 km south of the River Barrow and River Nore SAC (site code 002162)

5.2.2. Having regard to the nature and scale of the proposed development at serviced lands within the settlement of Dunmore East, and the separation distances to European Sites, I do not consider that the proposal would be likely to significantly impact the qualifying interests of European Sites during either the construction or operational phases of development. As such, I consider that no Appropriate

Assessment issues arise. In conclusion, I do not consider 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. The WCCC Habitats Directive Project Screening Assessment on file, dated 14th December 2022, is also noted in this regard.

5.3. EIA Screening

- 5.3.1. Having regard to the nature of the development, comprising of an extension to an existing dwelling house at a serviced site within the defined settlement of Dunmore East, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

6.0 The Appeal

6.1. Grounds of Third Party Appeal

- 6.1.1. The appellants are the residents of House A6 at Harbour Village, the adjacent property to the northwest of the proposed development. The main points made in the grounds of appeal may be summarised as follows.
- Harbour Village was originally developed in the 1990s as a holiday village. The appellants currently use their house as a holiday home but intend to live in it full time when they retire, subject to planning permission. Permission was granted for a sunroom extension to House A6 in 2008, prior to the appellants' purchase of their property.
 - The development site was previously used as the administrative office for Harbour Village but was converted into a dwelling on foot of the permission granted under reg. ref. 14600132. The site office was constructed on a restricted site and the creation of additional living space can only be achieved by adding an extension that is inappropriate in terms of its scale and bulk in relation to the remainder of the building and to the detriment of the appellants' property.
 - The proposed first floor extension would overlook the sunroom and patio area of the appellants' property. The proposed kitchen area and velux windows are less

than the recommended 11m separation distance from their boundary and will facilitate direct overlooking of their property.

- The gable roof extension will result in overshadowing of the appellants' property due to its orientation, scale and proximity.
- The applicant's response to the WCCC RFI does not address the concerns raised by the appellants in their original submission to WCCC. The only change that the applicant made to the development on foot of the RFI was to reduce the extension in size and to bring it within the property boundary. The revised design does not address the issues of overlooking, overbearing or inappropriate design with supporting columns.
- It is not a consideration that the appellants' property House A6 was previously extended towards the application site, given that permission for same was granted under 07/1380, also that the appellants' extension was permitted and constructed before the current development site was converted from a site office to residential accommodation.
- The applicant's living area should not be increased to the detriment of the appellants' property in terms of overlooking and overshadowing.
- It is submitted that passive overlooking from an adjacent roadway is not as invasive as a habitable neighbouring space being constructed that would permanently overlook the most used part of the appellants' property.
- It is submitted that the current use of the appellants' property as a holiday home does not justify the extent of overshadowing that would result from the proposed development.
- The development will set an undesirable precedent for the area in relation to the use of the overhanging element of the structure.

6.2. Applicant Response to Third Party Appeal

- 6.2.1. The applicant's response to the third party refers the Board to the planning comment included in the further information submitted to WCCC on 8th March 2022. The following points of same are noted:

- The proposed extension is the only reasonable way to provide additional living accommodation at the subject site, the living area is at first floor level. The extension has been designed to match the existing architecture of Harbour Village.
- It is submitted that Avoca Lodge is the applicants' permanent residence, as permitted under reg. ref. 14600132, whereas House A6 has a permitted use as a holiday dwelling.
- The proposed extension has been reduced in size on foot of the RFI, also proposed railway sleepers have been removed from the design.
- The extension will not overlook House A6 and will in fact result in a 60% reduction in existing views from the roof lights of Avoca Lodge towards House A6. The proposed clear storey kitchen window and high level rooflights will not result in overlooking.
- The elevation and volume of the extension will have a marginal effect on House A6 and will be further reduced visually by the fact that the ground level at Avoca Lodge is 1.67 m below the level of House A6. House A6 dominates and overlooks Avoca Lodge.
- The extension will not significantly increase the overall bulk of Avoca Lodge as its ridge level is the same as the existing building and Avoca Lodge is at a lower level than House A6.
- The bulk of the proposed extension is smaller than that which was added to House A6 and which extended that property closer to Avoca Lodge and reduced the distance between the two properties, as permitted under reg. ref. 071380. That development resulted in overlooking from House A6 into the ground floor habitable room at Avoca Lodge. Additional amendments to House A6 also resulted in new windows overlooking House E3 within Harbour Village. Several concerns are raised regarding the consistency of the works carried out at House A6 with the permission granted under 07/1380 (extracts from same submitted to WCCC on 8th March 2023, as part of the further information response).

- It is submitted that it is not equitable to refuse the proposed development on the basis of proximity to House A6, if no such requirement was imposed on House A6 when permission was granted under 07/1380.
- Avoca Lodge and House A6 are within the larger Harbour Village development, which has open plan areas and limited distances between houses, due to its original design and permitted use as a holiday village. Many owners of properties within Harbour Village have carried out landscaping or formed patios on lands outside their freehold sites. A patio at Avoca Lodge has been removed. It is submitted that the owners of House A6 formed a pathway and carried out landscaping outside their site boundary.
- Avoca Lodge is to the southeast of House A6 and, due to the limited scale of the extension, it will result in no additional overshadowing, refer to shadow diagrams submitted.

6.2.2. The applicant's response also includes additional overshadowing diagrams indicating the relationship between the proposed development and the appellants' property; diagrams indicating visibility and distances between the proposed first floor extension and the appellants' property, and site photographs.

6.3. Planning Authority Response

6.3.1. The following points are noted from the WCCC response to the appeal:

- The planning authority notes that the substantive issues raised in the appeal were also raised in the submissions made to the planning authority both in response to the initial application and in response to the further information submitted.
- It considers that these matters were addressed in detail in the planning assessment on file, also that the development was granted permission following a detailed and robust assessment.
- The planning authority remains favourably disposed towards the development and urges ABP to uphold its decision.

6.4. **Observations**

6.4.1. None on file.

6.5. **Further Responses**

6.5.1. None on file.

7.0 **Assessment**

7.1. I have read through the file documentation and the relevant provisions of the City and County Development Plan and have carried out a site inspection. The main issues are those raised in the planning reports on file and in the grounds of appeal. Overall, I am satisfied that no other substantive issues arise. I note in this regard that the development site is an existing house located on residentially zoned and serviced land within the settlement of Dunmore East. I consider that the relevant issues can therefore be dealt with under the following headings:

- Impacts on Residential Amenities
- Impacts on Visual Amenities

These issues may be considered separately as follows.

7.2. NOTE: The applicant's response to the appeal raises various issues in relation to potential non-compliance with reg. ref. 07/1380, a permission granted at the appellants' property House A6, Harbour Village. Those issues are outside the scope of this assessment.

7.3. **Impacts on Residential Amenities**

7.3.1. The grounds of appeal submit that the development will result in additional overshadowing of a sunroom on the eastern side of their property at House A6. The subject site Avoca Lodge is situated to the southeast of House A6. The applicant has submitted shadow diagrams indicating the extent of overshadowing from the proposed extension at midsummer, midwinter and equinox. While the shadow analysis provided is somewhat limited, I am satisfied with regard to the relative orientation and to the limited scale of the extension, within the existing ridge height of

the house, that the proposed extension will not result in significant additional overshadowing of House A6 such as would warrant a refusal of permission.

7.3.2. With regard to overlooking, I note that the proposed first floor extension is c. 8m from the edge of the adjacent sunroom at House A6. The elevations are angled such that the proposed first floor extension will not directly face the sunroom. There is a difference in levels between the two properties such that Avoca Lodge is c. 1.67m below the level of House A6. The kitchen area within the extension is to be lit by a high level window and rooflights rather than a large, glazed area. I consider that this design will not result in significant additional overshadowing of House A6, noting that the roof area of Avoca Lodge facing House A6 already has several roof lights. I also note in this regard that the open space between Avoca Lodge and House A6 is already visible from the public realm both from Circular Road and from within Harbour Village.

7.3.3. I am satisfied on this basis that the development will not result in any significant adverse impacts on residential amenities by way of overlooking or overshadowing, subject to conditions.

7.4. Impacts on Visual Amenities

7.4.1. The grounds of appeal submit that the proposed first floor extension will have an overbearing appearance and adverse visual impact on House A6. As noted above, the structure is c. 8m from the sunroom on the eastern side of House A6 and is c. 1.67m below the level of House A6. The proposed development will change the outlook from House A6. However, I do not consider that this will result in significant adverse impacts with regard to the following matters:

- The proposed extension has been designed to match the architecture of Harbour Village.
- The extension will not increase the ridge height of Avoca Lodge and does not significantly increase the footprint.
- Permission may be granted subject to a condition to regulate the external finishes to the satisfaction of the planning authority.

I am satisfied on this basis that the proposed development would not result in any significant adverse impact on visual amenities such as would warrant a refusal of condition.

7.5. Planning Assessment Conclusion

- 7.5.1. Having regard to the above, I am satisfied that the development will not have any significant adverse impacts on residential or visual amenities and that the development is in accordance with development plan policy on residential extensions as per section 4.9 and Objective DM 11 as set out above.

8.0 Recommendation

- 8.1. Having read the appeal and submissions on file, had due regard to the provisions of the Waterford City and County Development Plan 2022-2028, carried out a site visit and all other matters arising. I recommend that permission is granted subject to the conditions set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the residential land use zoning of the site, the nature and scale of the proposed development, and the provisions of the Waterford City and County Development Plan 2022-2028 including Objective DM 11 on residential extensions, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential amenities of the area or of property in the vicinity in terms of overlooking, overbearing or overshadowing impacts. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted to the planning authority on 8 th March 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the
----	---

	<p>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 to 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>No overhanging of, or trespass on, adjoining properties by eaves, gutters, foundations, etc. shall take place on foot of this permission. The extension may, however be reduced in scale so as to avoid any such trespass and in accordance with details to be submitted to the planning authority for written approval prior to the commencement of development.</p> <p>Reason: In the interests of orderly development and residential amenity.</p>
4.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, 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 supply and wastewater connection agreements with Irish Water/ Uisce Éireann, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound,</p>

	<p>noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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>
8.	<p>The developer shall pay to the planning authority a financial contribution 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.</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.

Sarah Moran
Senior Planning Inspector

3rd October 2023