



An
Bord
Pleanála

Inspector's Report ABP-317120-23

Development	Demolish single storey shed, construct 2 no. one-bed apartments, and make alterations to connections into existing water and waste-water services.
Location	Rear of No. 74 Market St., Cootehill, Co. Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	22/445
Applicant(s)	Michael Giles
Type of Application	Permission
Planning Authority Decision	Grant, subject to 18 conditons
Type of Appeal	Third Party -v- Decision
Appellant(s)	Peter McCaffrey
Observer(s)	None
Date of Site Inspection	12 th September 2023
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located in Cootehill town centre on the western side of Market Street and close to the crossroads at the foot of this Street with Church Street, Cavan Street, and Bridge Street. This site comprises a mid-row, three-storey, street-fronted building at No. 74 Market Street, its two-storey mono-pitched roof return, its two-storey rear extension, and an attached, single storey shed on the northern side of the rear yard. Access to the rear of the building is by means of an archway. The site is of regular shape, and it extends over an area of 0.489 hectares.
- 1.2. The aforementioned building comprises two retail units at ground level, one of which is a hot food takeaway, and one of which is a gym. The upper floors, two-storey return, and two-storey extension are in residential use. The single storey shed was used for storage, but it is presently unused and vacant. The front of the archway is gated. The rear elevation of the three-storey building above and beside the rear of the archway supports a wall mounted ventilation unit and a ventilation flue, which extends only as far as the second floor, as above it runs an external fire escape. To the rear of the archway, wheelie bins are stored in the open, and beside the single storey shed there is a small boiler house with its own flue, and an oil tank mounted on a plinth.

2.0 Proposed Development

- 2.1. Under the proposal, the single storey shed (87.8 sqm) would be demolished, and it would be replaced by a single storey building (102.8 sqm), which would accommodate 2 no. one bed apartments. The existing overall floorspace on the site would change thereby from 553 sqm to 568 sqm, a net increase of 15 sqm.
- 2.2. The proposed building would be sited in the north-western portion of the rear yard. It would be of rectangular form under a double pitched roof with fully hipped gabled ends. While this building would be freestanding, it would be separated only minimally from the two-storey rear extension and the rear boundary wall to the site. (The existing passageway with the neighbouring two-storey apartment building to the north would be maintained). It would be of single aspect with all openings in the south south-western elevation, which would overlook the rear yard. The portion of this yard abutting this elevation would be sub-divided to provide private open space

for either apartment. The remainder of the rear yard would be retained as a communal space. Existing mains water and combined sewer lines across the site would be altered in conjunction with the partial redevelopment of the site and new connections made to the same.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted, subject to 18 conditions. Conditions 7, 8 & 9, variously, refer to the provision of a storage area for the existing commercial units in the communal yard, the provision of cycle parking spaces in the site, and the prohibition of car parking within the existing archway.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The case planner considered that the proposal was acceptable in principle from a land use perspective, and he proceeded to assess it under the CDP's development objectives BSUA 1 & 2. The following further information was requested:

- i. A shadow study,
- ii. Clarification of floor areas cited,
- iii. Minimum aggregate floor area for kitchen/dining/living space to be achieved,
- iv. Details of boundary treatments, and
- v. Clarify use of archway and confirm absence of obstruction.

The PA was satisfied with the applicant's response. In relation to the first item, he noted the baseline of overshadowing that already occurs, and he noted, too, that the height and hipped design of the proposed roof would limit any potential increase in overshadowing of the neighbouring property to the north-east. He concluded that on balance the ensuing impact would be acceptable.

3.2.2. Other Technical Reports

- Irish Water: Further information requested, i.e., Pre-Connection Enquiry.

4.0 Planning History

Site:

- 64/8560: Garage: Permitted.
- 88/17227: Reconstruction of premises for use as shop, flats, and office: Permitted.
- 03/1089: External and internal alterations to reconstructed premises: Permitted.
- 15/188: Change of use of shop to takeaway: Permitted.
- 17/15: Retain extractor fan: Permitted.

Adjoining site to the north-east:

- 01/1121: Demolish existing building and construct two-storey building comprising 5 no. apartments: Permitted.
- 08/337: Retain elevations, as constructed, and alterations to apartment No. 1, and additional apartment No. 6: Permitted.

5.0 Policy and Context

5.1. National Planning Guidelines

- Sustainable Urban Housing: Design Standards for New Apartments (December 2022)

5.2. Development Plan

Under the Cavan County Development Plan 2022 – 2028 (CDP), Cootehill is categorised as a self-sustaining town, and the site is shown as lying within the town core zone, wherein the objective is “To protect and enhance the special physical and social character of the town and village core while providing and/or improving town/village centre facilities.” Residential use is permitted in principle in this zone.

Section 13.5.3 of the CDP addresses backland sites in urban areas. The following two development objectives are of relevance:

BSUA 01

Having regard to the requirement to protect the residential amenity and character of existing residential areas, backland site development proposals shall satisfy the criteria for infill development, avoid undue overlooking and overshadowing of adjacent properties and shall respect existing building lines where possible.

BSUA 2

Backland development proposals shall avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development.

5.3. **Natural Heritage Designations**

Lough Oughter & Associated Loughs SAC

5.4. **EIA Screening**

Under Items 10(b) (i) & (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2023, where a proposal is for more than 500 dwelling units and/or it would be on an urban site which would exceed 10 hectares in area the need for a mandatory EIA arises. The proposal is for 2 no. dwelling units and the development of a site with an area of 0.0489 hectares. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall well below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The appellant owns the two-storey six-apartment building to the north-west of the site. He raises no objection to the proposal *per se*, only the proposed roof. He draws attention to the separation distance between the rear elevation of his building and the common boundary wall, which is between 1.4 and 1.7m. He also draws attention to apartment No. 5, which is at first floor level, and which receives light through two windows in the rear elevation. His grounds of appeal are as follows:

- While the proposed roof would be hipped, its ridgeline would be higher than the sloping roof that it would replace. Consequently, the outlook from the two existing windows in question would be restricted to viewing the presenting slated plane of this roof, and, in the winter months, the limited available daylight would be restricted still further. The appellant, therefore, suggests that a sloping roof similar to the existing one should be specified.
- The existing sloping roof extends from the top of the common boundary wall. The submitted plans suggest that the rear eaves line would come below the top of this wall, and yet alterations to it would be necessary. The wall is shared between the two adjoining owners.

6.2. Applicant Response

- The applicant draws attention to the ground floor and first floor windows in the rear elevation of the appellant's building. Insofar as the proposal would allow for the common boundary to be lowered, the ground windows especially would experience an improvement in their lighting.
- The applicant acknowledges that in the winter months his shadow study depicts an increase in overshadowing. However, insofar as this study did not allow for the presence of buildings to the south on Bridge Street, this increase may not, in practice, materialise.
- The ridge of the proposed roof would be further away from the rear elevation in question than the existing common boundary wall. It would be higher than this wall, and so the view from first floor windows would be of it. Thus, a limited view of the yard and surrounding buildings would be replaced by a more open view, albeit largely of the slated rear roof plane.

6.3. Planning Authority Response

- The case planner reiterates his assessment that a significant increase in overshadowing would not arise and the separation distance between the first-floor windows in question and the proposed ridgeline would be of benefit.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the Sustainable Urban Housing: Design Standards for New Apartments (SUH: DSNA) Guidelines (December 2022), the Cavan County Development Plan 2022 – 2028 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use and apartment standards,
- (ii) Residential amenity,
- (iii) Miscellaneous, and
- (iv) Appropriate assessment.

(i) Land use and apartment standards

7.2. Under the CDP, Cootehill is categorised as a self-sustaining town, and the site is shown as lying within the town core zone, wherein the objective is “To protect and enhance the special physical and social character of the town and village core while providing and/or improving town/village centre facilities.” The proposal for the site is to replace a storage shed in the rear yard with a single storey building, which would provide 2 no. one-bed apartments. The CDP indicates that residential use is permitted in principle in the town core zone, and so there is no land use objection to the proposed apartments.

7.3. Under the proposal two identical one-bed/two person apartments would be constructed with a total floorspace of 102.8 sqm, i.e., each would have a floorspace of 51.4 sqm. Under Appendix 1 of the SUH: DSNA Guidelines, the required minimum floorspace for these apartments would be 45 sqm.

- 7.4. The aforementioned Appendix also sets out minimum floor areas and widths for living/dining/kitchen areas and the bedroom, and minimum floor areas for storage space, and for private and communal amenity space. The proposed apartments would provide a mix of areas that would be both slightly below and above these minimums. With respect to the former, the living/dining/kitchen area would, at 21.7 sqm, be shy of the minimum of 23 sqm and the storage space, at 2.2 sqm, would be shy of the minimum of 3 sqm. With respect to the latter, the bedroom, at 13.5 sqm, would exceed the minimum of 11.4 sqm, and the private amenity space would be well in excess of the minimum of 5 sqm. While no communal amenity area is proposed, the meaningfulness of such provision would be questionable for a two-apartment scheme. Of more value is the private amenity space, which would be amply provided for. Comprehensive details of soft and hard landscaping in the private amenity space should be conditioned.
- 7.5. The submitted floor plan of the proposed apartments indicates that they would be served by a front door and corridor, which would result in a relatively large amount of circulation space. I have considered the option of incorporating the entrance hall into the adjoining living room. However, I consider that, given the south south-western elevation of the proposed building and the direction of the prevailing wind, the specification of a front door opening directly into the living room would not be ideal. Insofar as such incorporation would be prompted by the need to overcome a nominal shortfall in the area of this room, I do not consider that it would be justified. Instead, I consider that any shortfall in floorspace can, in these circumstances, be weighed against the generous private amenity space, to allow me to conclude that a satisfactory standard of amenity would arise.
- 7.6. The submitted floor plan also indicates that the corridor would be extended to allow for both the bathroom and storage space to be accessed. The Guidelines allow for storage space to be partially accessed from rooms rather than circulation space. Given that the apartments would provide one-bed accommodation, I consider that the storage space could reasonably be accessed wholly from the bedroom, thereby allowing it to meet the 3 sqm standard, and the bathroom could be extended over the end of the “freed up” corridor. These adjustments could be conditioned.

7.7. I conclude that the proposal would be acceptable in principle, and, subject to some minor internal alterations, it would afford a satisfactory standard of amenity to future residents.

(ii) Residential amenity

7.8. The appellant draws attention to his two-storey apartment building, which is immediately adjacent to the north-eastern boundary of the site. The rear elevation of this building directly corresponds with the existing wall along this boundary. Consequently, the ground floor windows are greatly affected by its presence, while the first-floor windows are to a lesser extent, i.e., the upper halves of these windows afford views over this wall, which marks the highest point of the mono-pitched roof over the existing storage shed on the site. Under the proposal, this roof would be replaced by a double pitched roof with fully gabled ends, and so its eaves line would be lower than the existing boundary wall, i.e., it would be 3m rather than 4.2m, a saving of 1.2m. However, the ridge line would be 5.5m, i.e., an increase in height of 1.3m, albeit at a distance of 5.3m from the rear elevation rather than 1.5m.

7.9. The appellant expresses concern over the loss of outlook that would arise from the said first-floor windows. He, therefore, requests that the status quo be effectively maintained by the specification of a mono-pitched roof over the proposed new building. The applicant has responded by stating that the effect of his proposal would be to allow for both halves of the upper floor windows to have views out, albeit they would largely be of the slated rear roof plane over the new building.

7.10. The applicant draws attention to the marginal improvement, as a result of the new eaves height, that the proposal would secure for the ground floor windows in the rear elevation of the appellant's apartment building, in terms of their lighting. He also draws attention to the shadow study, which he submitted at the application stage. He states that, as this study did not "factor-in" the higher buildings to the south at the junction between Market Street and Bridge Street, it mistakenly concluded that there would be a slight deterioration in the lighting of windows in the rear elevation in question.

7.11. During my site visit, I observed the existing relationship between the site and the appellant's apartment building. While I acknowledge that under the planning system neighbours typically do not have a right to a view, I note that the upper floor windows

in the rear elevation of the existing apartment building would be affected by the proposed ridge height, in terms of a heightened sense of enclosure, which would affect their amenity. I note, too, that this height results from, amongst other things, roof pitches of 32 degrees, and so if these pitches were to be reduced, a saving in the ridge height would be secured. The proposed roof covering is slate. Good practice normally allows for slate roofs to have pitches of 27.5 degrees. Were this pitch to be specified, then I estimate that a saving of 0.4m would result, which would ease the heightened sense of enclosure acknowledged above, and thus the impact upon amenity. Such reduction could be conditioned.

7.12. I conclude that the proposal would, subject to a reduction in the pitch of the proposed roof, be compatible with the residential amenities of the area.

(iii) Miscellaneous

7.13. While the subject shed is unused and vacant, the yard within the immediate vicinity of the building on the site is used for the open storage of a variety of sizes of wheelie bins, which presumably serve the uses comprised in this building. The applicant's site layout plan shows this portion of the yard as a communal area, with refuse bin storage in its north-western corner. The PA's Condition No. 6 attached to its permission requires the submission of a scheme showing the external storage arrangements for the two retail units. I consider that this scheme should be expanded to include bin storage arrangements for existing and prospective residents, too, i.e., a comprehensive scheme.

7.14. The PA's Conditions Nos. 7 & 8 refer to the need for sheltered bicycle parking spaces and the avoidance of car parking under the archway. These conditions, too, should be reiterated in any permission granted by the Board.

7.15. The site is served by the public water mains and a combined sewer. The site layout plan shows these services, and the description of the proposal refers to the need to "make alterations" to the existing connections. Irish Water advised that a pre-connection enquiry be made, and the PA, under Condition No. 15, flags the need for a connection agreement. I note that the line of the combined sewer would pass under the proposed building. I note, too, that this sewer passes under the existing building and a neighbouring one to the west. Given this baseline and the absence of any capacity issues, I consider that, in principle, the proposal would be capable of

being adequately serviced for the purposes of water supply and foul and surface water drainage.

7.16. Under the OPW's flood maps, the site is not formally identified as being the subject of any flood risk.

7.17. I conclude that, subject to conditions pertaining to bin and bicycle storage, the utilitarian needs of future residents would be capable of being met.

(iv) Appropriate assessment

7.18. The site is neither in nor beside a European site. It is a fully serviced town centre site, and so its partial redevelopment, as proposed, would not raise any appropriate assessment issues.

8.0 Recommendation

That permission be granted.

9.0 Reasons and Considerations

Having regard to Sustainable Urban Housing: Design Standards for New Apartments (December 2022) and the Cavan County Development Plan 2022 – 2028, it is considered that, subject to compliance with conditions, the proposal would fulfil the zoning objective for the site and provide a satisfactory standard of amenity for future residents. It would, subject to the lowering of its proposed ridgeline, be compatible with the residential amenities of the area. The provision of utilitarian services would be capable of being met, and no water or appropriate assessment issues would arise. The proposal would, thus, accord 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 plans and particulars submitted on the 7 th day of March 2023 and by the further plans and particulars received by An Bord Pleanála on the 13 th
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	<p>day of June 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 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>The proposed development shall be amended as follows:</p> <p>(a) The roof planes shall have a pitch of 27.5 degrees.</p> <p>(b) In each apartment, the internal storage space shall be rearranged to enable it to have a minimum floorspace of 3 square metres and to be accessed from the bedroom only. As a consequence, the bathroom shall be rearranged, too, and it shall be extended over the end of the proposed corridor.</p> <p>(c) Comprehensive details of the soft and hard landscaping of each private amenity area and a timetable for implementation.</p> <p>(d) The communal yard shall be laid out to enable the bin storage needs of both the retail users of the site and existing and future residents of the site to be fully met. Covered bicycle parking facilities shall be provided for existing and future residents, and the archway to the communal yard shall be denoted as an access to be kept free at all times from parked vehicles. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential amenity, in order to promote cycling as sustainable mode of transport, and to safeguard access in the interest of public safety.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed apartments shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>

4.	<p>Prior to the commencement of development, the developer shall enter into water and/or waste water connections agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
5.	<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 intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
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>
7.	<p>The developer shall pay to the planning authority a financial contribution of €2,360 (two thousand, three hundred and sixty euro) 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>

	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.
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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.

Hugh D. Morrison
Planning Inspector

24th October 2023