



An
Bord
Pleanála

Inspector's Report

ABP-317242-23

Development	Retention of existing house on site as an amendment to the original planning permission ref. number 03510887.
Location	Ard Rí, Boru Court, Ballina, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2360069
Applicant(s)	Alex & Melanie Schregardus
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	OBB Consulting Engineers Ltd., on behalf of Aimee & Sean O'Connell
Observer(s)	None
Date of Site Inspection	15 th August 2023
Inspector	Catherine Dillon

1.0 Site Location and Description

- 1.1. The site is located within an established housing estate Boru Court in Ballina, Co.Tipperary. The site is accessed off the eastern side of the R494 which leads onto Grange Road and onto the estate road serving Boru Court housing estate. The site is a corner plot to the west of Boru Court road and is occupied by a detached dwelling with accommodation in the roof space in the form of roof lights on the eastern elevation and a rear first floor dormer extension in the rear western elevation. The existing dwelling is on a stated plot of 0.06hectares and is currently occupied. The site was the former rear garden to the bungalow facing Grange Road.
- 1.2. There is an unmade road along the northern boundary of the site which serves the dwelling to the west of the site which is accessed off the regional road. This property is a two-storey dwelling with the rear elevation facing the subject site and is at a lower level (0.8m) than the subject site. It adjoins a property to the south which is also a two storey house fronting Grange Road.
- 1.3. The site is enclosed by a c.1.7m high boundary wall on all sides and is to the north of the town centre.

2.0 Proposed Development

- 2.1. The development is for the retention of the position of the existing house on site, as an amendment to Planning Permission Ref: 03510887. The house currently on site is larger than that granted in 03510887 and is two storeys to the rear in the form of dormer windows in the roof.
- 2.2. The overall plot dimensions of the site are the same. The differences between the position of the house in the current proposal and that granted in P.A Ref: 03510087 as indicated on the drawings are summarised as follows:

	Appeal property	P.A Ref: 03510887
Distance from western rear boundary	5.3m	11m
Distance from southern boundary	5.7m	5m

Distance from eastern front boundary	10m	13m
Northern boundary	6m	3m

2.3. The development is connected to the existing mains water and public sewer.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. **P.A Ref. 2360069:** On 5th May 2023, following a further information request Tipperary County Council granted retention permission for the position of the existing house on site as an amendment to the original planning permission Ref. No. 03510887, subject to 3 conditions. Condition 3 of the permission stated the following:

A revised landscape plan together with an accompanying planting schedule shall be submitted within one month of the date of this order and will be subject to the written agreement of the Planning Authority prior to the habitation of the extension. The scheme shall provide for hard landscaping along the western boundary e.g. trellis, which shall provide additional screening along this boundary.

Reason: In the interests of residential and visual amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planner's report notes the application is for the retention of the position of the existing house on site as an amendment to the original planning permission ref number 03510887, which is considered acceptable in principle in the settlement of Ballina. Under this permission the dwelling was constructed c. 6m closer to the western boundary due to what appears to be a misrepresentation of the location on the approved plans. This was highlighted during the construction of the extension under planning permission ref:21637. The planner's report accepts the current distances as shown on the submitted plans are correct as they were measured during an

enforcement investigation by the Planning Authority (Ref: TUD-22-134). In relation to the impact on the residential amenity of the neighbouring property (west) the planner's report considered that while the proximity to the rear boundary has clearly increased, the impact may be alleviated to an acceptable level by a condition of the permission requiring a landscaping/screening proposal be agreed prior to the occupation of the extension.

3.2.3. Other Technical Reports

Water Services: No report

Irish Water: No report

3.3. Prescribed Bodies

3.4. None

3.5. Third Party Observations

3.5.1. One letter was received from the occupiers (Appellants) to the west of the site, objecting to the proposal on the following grounds:

- Extension is causing distress to the neighbours;
- Overlooking issues;
- The drawing submitted shows inaccurate distances from neighbouring boundary;
- Disregard to conditions of previous permission ref: 21637;
- No screening provided as previously required; and
- The extension is not subordinate to the main dwelling.

4.0 Planning History

4.1. **P.A.Ref: 03510887:** This was the original permission for a house on the site and was granted planning permission in October 2003, for a single storey 2 bedroom dwellinghouse, use of existing entrance and to carry out associated site works, subject to 14 conditions. The house granted on site was 11m from the rear western boundary.

The house was indicated as having a floor area of 55.5m² on a site of 0.06ha.. This site was the former back garden of the bungalow to the south of the subject site. This permission was implemented.

P.A.Ref: 21637: Planning permission was granted in August 2021 for alterations to the existing dwelling to include changes to the elevations including a rear dormer first floor extension and all ancillary works, subject to 5 conditions. Condition 2 required a landscaping plan to be agreed prior to commencement. The plans indicate the house as granted was 8.3m at its closest point from the rear western boundary. The extensions included alterations to all elevations including a two-storey extension on the northern elevation and a rear dormer extension. Photographs in the planner's report indicate the dwelling granted in P.A Ref: 03510887 above had been constructed at the time this application was submitted. The existing building had a floor area of 94.6 m² and the proposed works were 52.5m². The site was stated as having an area of 0.06ha.. The works granted planning permission have been implemented.

4.2. **P.A.Ref:05511084:** Planning permission was granted in November 2005 to retain an attic conversion with two bedrooms and a bathroom including roof windows, subject to 1 condition regarding plans and particulars. The rooms in the attic were indicated as being served by 2 rooflights in the front elevation and 1 in the rear serving a bathroom. The plans indicate the house as granted was 11m from the rear western boundary. The house was indicated as having an increase in floor area of 40m², and a site area of 0.036ha..

4.3. **Enforcement:**

4.4. **P.A Ref: TUD 22-134:** Warning letter issued regarding the position of the constructed dwelling.

5.0 **Policy Context**

5.1. **Tipperary County Development Plan 2022-2028**

5.1.1. **Volume 3 Appendix 6: Development Management Standards**

5.1.2. **Section 4.12 Domestic extensions**

The Council will seek to implement the following guidelines in respect of extensions.

- a) A ground level extension shall be subordinate to the main dwelling in scale and design. There are, however, circumstances where an existing property is limited in size (e.g. a single bedroom cottage) and a large extension is required to allow it to be brought up to modern living standards. Such developments will be considered on a case-by-case basis and will require a sensitive design to ensure that the proposal will not dominate the local streetscape and a plot size that can absorb the development.
- b) The extension shall integrate with the primary dwelling, following window proportions, detailing and finishes, including texture, materials and colour.
- c) The design and layout of extensions to houses shall have regard to the amenities of adjoining properties. The Council may require the submission of a daylight, sunlight and overshadowing assessment, if considered necessary.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designed Natura 2000 site and does not adjoin such a site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An agent on behalf of the Appellants Aimee & Sean O'Connell to the west of the subject site, has appealed the decision of the Planning Authority to grant permission. The grounds of the appeal can be summarised as follows:

- Privacy and overlooking of their property.

The works permitted under planning reference 21/637 are substantially complete and due to the elevated position of the property it overlooks their property and has resulted in the loss of their enjoyment of their private open space.

- Landscaping condition of the appeal application has not been implemented in accordance with the condition attached to the permission, as dwelling is occupied.

- History of non-compliance and request the Board make further investigations in this regard. There have been continuous inaccuracies regarding the position of the house.
- Extension is not subservient to the main dwellinghouse.

6.2. Applicant Response

None

6.3. Planning Authority Response

None

7.0 Assessment

7.1. I have read the entire contents of the file, visited the subject site and the Appellants property, and have had regard to the issues raised in the grounds of appeal. Having noted the planning authority's request for additional information and the Applicant's response to same, and furthermore having regard to the presence of an existing structure on site and completed extensions built under Planning Ref: 21637, I consider that the Board can restrict its deliberations to the issues raised in the grounds of appeal, namely;

- The impact of the position of the house as constructed on the residential amenity of the adjoining property to the west, and Appropriate Assessment.

7.2. Residential Amenity

7.2.1. When the original planning permission was granted in P.A Ref: 03510887, the single storey dwelling was indicated as being 11m from the western boundary. When planning permission was granted in P.A Ref: 21637, which included a two-storey rear dormer with bedroom windows in the first-floor rear elevation, the house was indicated as being 8.3m at its closest point from the rear western boundary. The house currently on site is indicated as being 5.3m from the western boundary. The house is occupied, and the extensions granted in P.A Ref: 21637, have been implemented.

7.2.2. House to west (rear) Appellant's house

7.2.3. This house has a rear garden which abuts the subject site and is approximately 0.8m lower than the appeal site. The rear garden to this property has a depth of between 15-17m to the rear boundary with the subject site and is enclosed by a c.2.5m high shared boundary wall when measured from the Appellant's rear garden. This property has a double-glazed window on the ground floor (playroom) and 2 windows on the first floor (bedroom and bathroom) which overlook the rear first floor windows of the appeal property.

7.2.4. On the day of the site inspection, I viewed both properties from both first-floor rear windows. It was possible to see into the rear garden of the property to the west when viewed from the first-floor bedroom windows of the appeal property, but it is considered this is not unusual in an urban environment. Although it was possible to see the windows in the rear elevation of the Appellant's property, it is considered due to the separation distances it was not possible to see into the rooms from the subject site.

7.2.5. The house as constructed is between 20.3m -22.3m from the rear wall of the Appellant's property. The Development Plan does not specify distances for opposing first floor windows for house extensions. A minimum separation distance of 22m between directly opposing windows at first floor level is only required in new build and these distances can be reduced subject to innovative design.

7.2.6. Although the house as constructed is closer to the rear boundary of the Appellant's boundary than indicated on the previous planning permissions, given the subject site's location and the built-up nature of the surrounding area, I am satisfied there is no loss of privacy or light to the Appellant's property as a result of the house being constructed 5.7m closer to their boundary.

7.2.7. I would agree with the Planning Authority a level of screening along the rear boundary of the of the appeal site would enhance the outlook when viewed from the Appellant's rear garden and would therefore recommend if the Board are minded to grant planning permission a condition is attached requiring a landscaping scheme to be agreed with the Planning Authority.

7.2.8. The Appellant raises the issue of the extensions not being subservient to the main dwellinghouse. However, the principle of the extension is not a matter before the

Board, as the extension was considered in line with the Development Plan policy when granted in P.A. Ref: 21637 as outlined above.

7.2.9. The Appellant has asked the Board to consider enforcement matters associated with the appeal site. This is not a function of the Board.

7.2.10. Based on this assessment, I recommend the decision of the planning authority be upheld and planning permission be granted for the proposal.

7.3. Appropriate Assessment

7.3.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, it is my opinion the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. Grant planning permission for the proposed development based on the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1. Having regard to the nature and location of the development and pattern of development in the vicinity, it is considered subject to the conditions set out below, the proposed development would not seriously injure the residential amenity of property in the vicinity. 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 retained in accordance with the plans and particulars submitted with the planning application and as amended by the further plans and particulars submitted on 11 th April 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
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	<p>authority within 1 month of the date of this permission 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>A revised landscape plan together with an accompanying planting schedule shall be submitted within 1 month of the date of this order and will be subject to the written agreement of the Planning Authority. The scheme shall provide for soft landscaping along the western boundary. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the landscaping, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interests of residential and visual amenity.</p>
3.	<p>All surface water runoff from roofs, driveways and paved areas shall be collected and disposed of within the curtilage of the site by means of soakaways designed in accordance with BRE 365 Standards. Surface water runoff shall not be allowed to discharge onto the public road or adjoining properties.</p> <p>Reason: To avoid interference with other properties and to prevent damage to the public road with consequent traffic hazard.</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.

Catherine Dillon
 Planning Inspector

4th September 2023