



An
Bord
Pleanála

Inspector's Report ABP-318126-23

Development	<i>Two storey extension and part first floor extension to single storey dwelling house, the addition of three new rooflights to the existing dwelling house, new carport, detached double car garage, electric entrance gates and the demolition of a sunroom and garden shed and associated site works</i>		
Location	<i>19 Meadowlands, Abbeyside, Dungarvan Co. Waterford X35 N603</i>		
Planning Authority Ref.	<i>2360406</i>		
Applicant(s)	<i>Darren & Sinead O'Toole</i>		
Type of Application	<i>Permission</i>	PA Decision	<i>Grant Permission</i>
Type of Appeal	<i>Third</i>	Appellant	<i>Jimmy & Joan Mansfield</i>
Observer(s)	<i>None</i>		
Date of Site Inspection	<i>08/03/2024</i>	Inspector	<i>Andrew Hersey</i>

Context

1. Site Location/ and Description. The site is located at 19 Meadowlands, Dungarvan (Eircode X35 N603) and comprises of a detached single storey house set onto an irregular shaped enclosed garden of a stated area of 0.18ha. The area is an established residential area comprising of detached houses on large

development sites. The rear, south of the site faces onto amenity space bounding Dungarvan Harbour. There is a dormer dwelling to the northeast and a single storey house to the west. Boundaries comprise of mature hedges and concrete timber palisade fencing.

2. Description of development.

- The proposed development comprises of:
 - Two storey extension and part first floor extension
 - the addition of three new rooflights to the existing dwelling house,
 - new carport,
 - detached double car garage,
 - electric entrance gates and
 - the demolition of a sunroom and garden shed and associated site works
- The existing House has a stated floorspace of 177sq.m. The proposed floorspace is cited as being 248.9sq.m.
- After a response to further information, the scale of the extension was reduced to 184.5sq.m

3. Planning History.

- Planning Reg. Ref. 19338 in the name of an Eileen Hyland refused permission for detached house in the side garden to the north of the existing dwelling on site and granted on first party appeal to the Board under ABP305042-19 This permission is to expire on the 6th August 2024

4. National/Regional/Local Planning Policy

- The Waterford City and County Development Plan 2022-2028 is the operative plan for the area.
- The site is zoned 'Existing Residential' within the said plan where it is the objective to *'Provide for Residential Development and protect and improve residential amenity'*

- The site is located within a 'Most Sensitive' Scenic Classification in the Landscape and Seascape Character Assessment as per the Development Plan owing to its proximity to the harbour.
- Policy Objective DM 11 states that 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.
- Section 4.9 of Volume 2 of the Waterford City and County Development Plan 2022- 2028 with respect of extensions states that: *'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.'*

5. Natural Heritage Designations

- The Dungarvan Harbour SPA (Site Code 004032) is located 200m to the north of the subject site

Development, Decision and Grounds of Appeal

6. PA Decision.

- Permission was granted subject to nine conditions.
 - Condition 3 stipulates that material finishes to be agreed
 - Condition 6: relates to demolition waste

- Condition 8 stipulates the use of the detached garage to be incidental to the enjoyment of the dwellinghouse and shall not be used for any habitable, commercial or industrial purpose
- No development contribution imposed.

7. Internal Reports

None received

8. Prescribed Bodies

None received

9. Submissions

There is one submission on file from a Jimmy & Joan Mansfield of 20 Meadowlands (located to the north east of the site), received 22nd May 2023, raise the following issues:

- That the previous permission on the site as granted under ABP305042-19 stipulated by condition that all existing trees and hedges along the north and eastern be retained.
- This this same hedge boundary stipulated by the Board to be retained is now proposed to be removed in the current proposal
- Inaccurate plans submitted with respect of the location of a hedge on the party boundary.
- Concerns raised with respect of the scale of the proposed extension along with the proposed double garage constitutes overdevelopment of this site and would seriously injure their residential amenities.
- That only single storey extensions have been permitted in the row of houses whose rear gardens face towards the sea. If the proposed development is permitted it would be at variance with this established precedent.
- Concerns that the garage will be used as an AirB&B rental.
- Concerns with respect of overlooking and overshadowing

- Devaluation of their property

The same party made a further submission on the back of a response to further information which was deemed significant by the planning authority. This submission dated 28th August 2023 raises the following issues;

- That the site plan submitted is still inaccurate\
- That the proposal to setback the garage by 1.5 metres from the boundary is not acceptable as the proposed detached garage is located on the footprint of a hedge which has been in existence for 32 years
- There is no need for a double garage of the scale proposed
- That the issues with respect of their first submission remain

10. Third Party Appeal. :

A third party appeal was lodged by Joan & Jimmy Mansfield on 29th September 2023) The grounds of the appeal relate to:

- That a leylandii hedge which is located between the two properties and forms a boundary between the same has been in existence for 33 years
- That if the Board are so minded to granting permission that a condition be imposed stipulating the retention of this hedge. Such a condition was imposed under a previous application on the site
- The scale of the proposed garage is excessive and there is ample room on the site to construct a garage without impinging on the said hedge.

11. PA Response

None received

12. Observers

None on file

13. First Party Response to Appeal (received 26th October 2024) c/o Aine Ryan Consulting

- That the appellants claim ownership of the Leyland hedge boundary and state that the site layout plans incorrectly align the site boundary
- Even with a 1.5 metre setback from the party boundary the appellants still state that the proposed garage encroaches on their landholding.
- The hedgerow boundary is located wholly within the registered land title of the first party.
- An aerial photograph of the boundary has been submitted with the response which shows the party boundary as per Ordinance Survey Maps
- That the boundary corresponds to a defined gap between the Leyland hedge within the first parties property and the boundary hedge in situ at No 20 Meadowlands. A photograph of this gap is submitted (Figure 6) in this response to the appeal.
- That the Planning Authority has stated that the party boundary as indicated on the site layout map is consistent with that indicated on Land Direct (PRAI Website)
- That the proposed garage will not impact upon the residential amenities of the appellants property. There is no fenestration facing towards the appellants property and is of a height which enables the retention of daylight and sunlight currently enjoyed by the appellants.
- That the proposal is compliant with policy with respect of extensions as set out in the Waterford City and County Development Plan 2022-2028
- That if the Board deems it necessary the first party would accept a condition whereby the detached garage was further removed from the party boundary than the 1.5 metre distance currently proposed.

Environmental Screening

14. EIA Screening

Having regard to the limited nature and scale of development , the suburban nature of the site and the absence of any significant environmental sensitivity in

the vicinity of the site, 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.

15. AA Screening

Having regard to the modest nature and scale of development, the urban nature of the site and the absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as 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.

2.0 Assessment

2.1. Introduction

2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.

2.1.2. I am satisfied the substantive issues arising from the grounds of this third party Appeal relate to the following matters-

- The Principal of the development
- Issues with respect of the party boundary
- Residential Amenity Issues
- Visual Amenity Issues/Design

2.2. The Principal of the Development

2.2.1. The proposed development comprises of a ground and first floor extension of an existing single storey house and the construction of a double garage on a large suburban site of 0.18ha.

2.2.2. The proposed development is located in an area zoned as 'Existing Residential' in the Waterford City and County Development Plan 2022-2028 where is it is the objective

of the said plan to *'Provide for Residential Development and protect and improve residential amenity'*

- 2.2.3. I would consider that the proposed development which is residential in nature complies with this land use zoning objective and as such the proposal in principle is acceptable.
- 2.2.4. Furthermore, I consider that the proposal complies with Policy Objective DM 11 as set out above which sets out development criteria with respect to extensions.

2.3. Issues with respect of the party boundary

- 2.3.1. I consider that this is the appellants principal concern with respect of the proposed development and in particular that the footprint of the proposed double garage will be situated on their property. They state that the said hedge is located within their property and it has remained in situ for a considerable period.
- 2.3.2. Section 5.13 of the S28 Development Management Guidelines for Planning Authorities (June 2007) states that *The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development.*
- 2.3.3. With respect of the above, I do not consider it is necessary for the Board to comment further on the matter regarding land ownership. As stated under Section 34 (13) of the Planning and Development Act 2000 (as amended), whilst permission may be granted for the development of land consent is still required by the owner to carry out that development. If there is a dispute then that is a matter for the courts not the Board.
- 2.3.4. Notwithstanding the above however, regard must be had to the first parties response to the appeal which in effect shows the party boundary superimposed over an aerial photograph of the site. It is clear from the same that the boundary in part comprises of two hedges planted side by side on either side of the party boundary. Though this is not the case at the site entrance it would appear that this is the case further back into the site and in particular where the proposed garage is to be located.

- 2.3.5. The applicants have proposed a garage which at response to further information is situated 1.5 metres from the party boundary. It is not clear as to whether the hedge on the applicants side of the property will need to be removed or not.
- 2.3.6. Development Plan policy with respect to distances to party boundaries do not stipulate how far a garage should be from a boundary. The plan states in Table 3.1 with respect of general standards for new residential development in urban areas that 'A minimum of 2.2 meters shall be provided between the side walls of detached, semidetached and end of terrace dwellings to ensure privacy and ease of access'
- 2.3.7. There is more than 2.2 metres between the proposed garage and the appellants house.
- 2.3.8. Notwithstanding the above, the concerns of the appellants with respect to residential amenity are understandable. This hedge has been in situ for a considerable period and has functioned as a visual barrier between both properties in the past and its retention is therefore warranted.
- 2.3.9. If the Board therefore are so minded to grant permission of the said development, it is therefore recommended that a condition be imposed to stipulate a minimum distance of 2.5 metres from the party boundary and that measures be incorporated to protect the hedge and roots of the hedge during construction works.
- 2.3.10. I note from the response to the appeal submitted by the first party would accept such a condition.

2.4. Residential Amenity Issues

- 2.4.1. The closest building to the appellants property is the proposed double garage which has a pitch roof and height of 4.9 metres and a floorspace of 64sq.m. There are no windows facing towards the appellants property.
- 2.4.2. Having regard to the same it is considered that the said garage would not cause any overlooking or impact the residential amenities of adjacent properties by way of overshadowing.
- 2.4.3. Equally, the proposed extensions to the house which is in excess of 14 metres to the party boundary would not be a cause of overlooking or overshadowing to the appellants property.

2.5. Visual Amenity Issues/Design

- 2.5.1. With respect of visual amenity issues, the Planning Authority sought changes to the initial design by way of a further information request. The response to this request included for a reduced ridge height of the proposed two storey element and a significant reduction in floorspace.
- 2.5.2. I note that the said site is located within an area designated as 'Most Sensitive' landscape Classification in the Landscape and Seascape Character Assessment in the statutory Development Plan.
- 2.5.3. Notwithstanding the above however, the site is located in a suburban area in which there is no consistent form of development. With respect to the same and notwithstanding the 'most sensitive' landscape classification it is considered that the area could accommodate varying forms and designs of development.
- 2.5.4. The Planning Authority were generally satisfied with the revised design submitted upon response to further information and on this basis recommended that permission be granted,
- 2.5.5. I concur with the Planning Authority in this regard, the proposed design and the material finishes proposed integrates successfully into the site and the area generally.
- 2.5.6. I do not consider that the size of the garage, a concern raised by the third party would in any way impact upon the visual amenities of the area or result in site overdevelopment
- 2.5.7. I therefore consider that issues with respect to visual amenities are acceptable.

3.0 Recommendation

- 3.1. I recommend that permission for the development be granted permission.

4.0 Reasons & Considerations

- 4.1. Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with zoning objective for the site as set out in the Waterford County Development Plan 2022 –

2028, would not be injurious to the visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

5.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, 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 detached garage shall be relocated so that it is at least 2.5 metres from the party boundary to the north and revised plans showing the same shall be submitted to the Planning Authority for agreement prior to the commencement of development.</p> <p>Reason: To protect residential amenities</p>
3.	<p>The existing hedge to the north of the garage within the site boundary shall remain in place insofar as possible and measures to protect the hedge from damage during construction works will be implemented by the developer. Details of the same shall be agreed with the Planning Authority prior to the commencement of development</p> <p>Reason: To protect residential amenities</p>
4.	<p>Details of all external finishes shall be agreed with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interests of visual amenity.</p>

5.	<p>The garage permitted herein shall be used for purposes incidental to the enjoyment of the dwelling house and shall not be used for any habitable, commercial or industrial purpose.</p> <p>Reason: To prevent unauthorised development</p>
6	<p>(a) Any surplus excavated material to be removed from the site shall be brought to an authorised facility.</p> <p>(b) All material arising from the demolition of the existing structure shall be reused/recovered on site or recovered/disposed of at an authorised facility.</p> <p>Reason: In the interest of Environmental Protection and the proper planning and sustainable development of the area.</p>
7.	<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>
8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 and 1400 hours on Saturday 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: To safeguard the residential amenities of adjoining property in the vicinity</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.

Andrew Hersey
Planning Inspector
21st March 2024