



An
Bord
Pleanála

Inspector's Report ABP 318331-23

Development

Retain kitchen dining extension to rear and side of dwelling house including covered open deck to rear and open terrace area at roof level, undertake modifications to screen surrounding first floor roof terrace and retain garden shed in use as ancillary to dwelling house.

Location

Donaghmore, Ballygarrett, Co. Wexford.

Planning Authority

Wexford County Council.

Planning Authority Reg. Ref.

202330742.

Applicant

Ronan Reid.

Type of Application

Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party

Appellant

Nicola Morrin.

Observers

None.

Inspector

Mairead Kenny.

1.0 Site Location and Description

- 1.1. The site is located in north county Wexford, close to Gorey town and the M11 motorway. The established seaside resort of Courtown is a few kilometres to the north. The site is located towards the end of a public road which serves a low density residential / holiday area. The dominant housing type in the area is holiday cottages and chalets. There is access to the coast a few hundred metres from the site.
- 1.2. To the southeast of the site is a graveyard and associated church ruins which are proximate to the subject dwellinghouse. To the north-west of the site is a dwelling house. To the north-east at the opposite side of the road is the appellant's dwelling house, comprising a well-established single-storey structure containing corrugated iron finishes.
- 1.3. The application site comprises a plot of stated area of 2,351 sq.m. It is part of a larger area of land in the ownership of the applicant, comprising lands and buildings to the northwest and north of the site. The site has a frontage of over 30m at the public road and an overall depth of approximately 75m. The site boundaries are defined by a mature evergreen hedgerow at the front and sides. At the opposite side of the road at the appellant's property there is a screen fence and some mature trees.
- 1.4. The subject house on site is located 11.7m from the roadside boundary. The wooden house has been altered by additions which are subject of this appeal. The application submissions show the original front elevation, including a small Velux window at roof level. The existing structure on site has been modified, including by the addition of an extension to the side above which is a roof terrace; the roof terrace is presently finished in a solid timber screen at the side facing the public road and the appellant's house. The height of the solid timber structure is 2.1 m.

2.0 Proposed Development

- 2.1. The proposed development relates to retention and completion of modifications to the house, as follows:

- (a) Retain 30 sq.m. rear and side extension to ground floor kitchen / dining area, to include zinc roof.

- (b) Retain zinc roof extension over existing 16.3 sq.m. deck to rear of house.
- (c) Retain 9.1 sq.m. extension to bedrooms and modifications to roof including to the original rear dormer windows.
- (d) Retain 13.3 sq.m. first floor roof terrace to side of house.
- (e) Construct 600mm high wall and 900mm opaque glass screen around the roof terrace, involving reduction in height of the existing 2.1m high front screen.
- (f) Remove window in first floor gable of northern façade and finish with timber.
- (g) Retain 13.9 sq.m. shed in use ancillary to dwelling.

In response to a request for further information an Archaeological Report was received on 12 September 2023. The report identifies and describes the mediaeval church and graveyard. It notes that there was no requirement under the previous application to undertake archaeological mitigation. It reports on the finding of agricultural furrows at a house site nearby and concludes that these are likely also to be present on the subject site. At the location of the extension of the dwelling house in the direction of the mediaeval church a decking area/patio was previously present. It is considered extremely unlikely that any features of archaeological significance would have been present at this location. No archaeological mitigation is considered necessary.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 4 no. conditions including:

- To be retained in accordance with the submitted plans and particulars including the further information of 12/09/2023.
- Contributions under Development Contribution Scheme.
- Use of garage to be incidental to enjoyment of house.

3.2. Planning Authority and Other Reports

3.2.1. Planning Reports

The Planner's reports include the following comments:

- There is presently limited and predominantly angled overlooking from the roof terrace to the eastern portion of the neighbouring property, which is perceived rather than actual overlooking. The proposed 1.5m screen would provide complete privacy for the users of the first-floor terrace and the users of neighbouring garden / dwelling.
- Accepts the conclusions of the Archaeological Report, which was submitted as further information. Notes that there was no condition attached to the original permission at this site, that there is limited additional building and that the documentary research would not support a requirement for archaeological mitigation.
- Recommends a grant of permission.

3.2.2. Other Technical Reports

Executive Technican (Roads) – notes there are no changes to the entrance - no technical comments.

3.2.3. Prescribed Body Referrals

The application was referred by the planning authority to the Heritage Council, Failte Ireland, An Taisce, DHLGH and the Arts Council. No response was received.

3.3. Third party comments

A submission received from the owner / occupant of the house across the road raises concern regarding privacy. The objection relates primarily to the open terrace at first floor level, which allows for overlooking of the whole of the front of her property, including the sunroom, outdoor seating area, the garden and the room where she carries out her business as a professional artist. The proposed reduction of the existing front screen wall at the roof terrace and its replacement with a lower structure including a glass balustrade would further erode privacy.

4.0 Planning History

Reg. ref. 900898 – permission granted for erection of dwellinghouse.

Reg. ref. 911143 – permission granted for retention of existing house.

Ref. 0256/2021 relates to planning enforcement – in particular a complaint regarding possible unauthorised works.

5.0 Policy and Context

5.1. Development Plan

The provisions of the Wexford County Development Plan 2022–2028 apply.

Objective L05 is to ensure that developments are not unduly intrusive including in coastal areas.

Under section 13.3 which deals with archaeological heritage, specifically objective, AH 05 there is a requirement for appropriate archaeological assessment of developments.

Volume 2 is the development management manual. Section 3.4 addresses extensions to dwelling houses and includes general provisions relating to avoidance of adverse visual impact on immunities of adjacent properties.

5.2. Natural Heritage Designations

Donaghmore Sandhills is a proposed National Heritage Area.

3.2km to the south are the nearest European sites including Cahir Polders and Dunes and Cahore Marshes SPA.

5.3. EIA Screening

- 5.4. 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

- The opening of a new door onto the new terrace area and the reduction in height of the unauthorised balcony are objected to on grounds of privacy impacts. The whole of the front of my property and garden, the avenue, front porch, bedrooms, sunroom and outdoor seating area are affected.
- The planning authority did not adequately address our concerns. The on-ground situation is very different. Inspection from the interior of the house would be appropriate.

6.2. Applicant Response

The main points of the applicant's response are:

- The first-floor terrace is 19.5m from the appellant's property and 49.5m from the appellant's house.
- Presently the terrace includes a 2.1m front screen wall, the height of which avoids any overlooking of the appellant's property. There is slight potential for an oblique view at present. The design will be refined to provide for a low screen wall and opaque glass enclosure to the entire perimeter of the terrace, of overall height of 1.5m which will prevent overlooking.
- In addition to the separation distance, the screening included in the design, there is also an intervening screen fence, hedge and trees.
- There will be no diminution of amenity.

6.3. Planning Authority Response

The planning authority response states that there is sufficient privacy and undue overlooking would not result.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. Planning Issues

I consider that the main issues relate to:

- The appellant's concerns relating to the first-floor terrace.
- The other elements of the proposed development.
- The potential for archaeological impact.

7.2. First floor terrace

The development undertaken includes the opening of a first floor terrace at the side of the house. The terrace is of stated area of 13.3 sq.m and is located off a bedroom. The proposed development includes removal of an existing 2.1m high solid timber wall at the front of the first-floor terrace and its replacement with a 600mm high wall and 900mm high opaque glass screen (total height 1500mm).

I note that the appellant has requested that arrangements be made for inspection of the interior of her house. I am satisfied that there would be no benefit to gaining access to the house. At the time of inspection, I had full access to the exterior of the house and noted the arrangement of the various rooms, the outdoor terrace and adjacent sunroom and the porch which is used as a seating area. The attached photographs identify these areas for the benefit of the Board.

In considering whether there would be any significant adverse effect on residential amenity by way of overlooking the following are relevant in my opinion:

- The significant distance between the first-floor terrace and the main amenity areas including the outdoor terrace, the sunroom and the room used as an artist's studio at the appellant's house – at over 45 m the standard accepted guidance of 26m is greatly exceeded.

- The hedgerow and trees within the curtilage of the appellant's house provide some screening of the roof terrace and the height of that hedgerow is within the appellant's control.
- The reduction in height of the screen wall from 2100mm to 1500mm is acceptable having regard to the separation distance. A secondary factor to note is the likelihood of the limited use of this area adjacent a bedroom.
- Any intervisibility between the first-floor terrace and much of the house, gardens and avenue will be at an oblique angle and the views of the house overall will dominate.
- The proposed change of the materials to opaque glass is acceptable.
- The first-floor terrace will be visible from the appellant's outdoor terrace but will be at such a distance that there can be no reasonable concerns relating to overlooking in my opinion.

For these reasons, I consider that the proposed height and design of the roof terrace, including the screening proposed are acceptable.

7.3. Other elements - The other elements of the proposed development are acceptable in my opinion. I note and concur with the submission in the application cover letter that some of the works undertaken might have fallen under the exempted development provisions of the planning regulations. The modifications including kitchen and dining extension and covering of the deck to the rear of the house as well as the small extension to the rear of first floor bedrooms and insertion of dormer windows are acceptable in terms of visual and residential amenities. The small converted former shed appears suitable for a home office and is acceptable.

7.4. Potential archaeological impact – I am satisfied that the Archaeological report submitted as further information is a professionally prepared document, that it is suitable in the context of the proposed development, and I accept the conclusions presented.

7.5. Appropriate Assessment Screening

7.6. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment and the 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. I recommend that the decision of the planning authority to grant permission be upheld for the reasons and considerations and subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the nature, extent and location of the proposed development and development proposed to be retained, and taking into account the documents submitted with the application and appeal, the policies and objectives of the development plan and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development and development proposed to be retained will not seriously injure the residential amenities, visual amenities or archaeological heritage of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be retained and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 12 th day of September 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. Reason: In the interest of clarity.
2.	Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

	Reason: In the interest of public health.
3.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision, amending or replacing them, the use of the former shed shall be strictly limited to the use of the dwelling house, unless otherwise authorised by a prior grant of planning permission.</p> <p>Reason : To protect the amenities of the area.</p>
4.	<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. The contribution shall be paid prior to the 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 the Board 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 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.

Mairead Kenny
Planning Inspector

8 March 2024