



An  
Bord  
Pleanála

## Inspector's Report ABP 318477-23

### Development

RETENTION for alterations to planning reg ref 22/113 containing the following: (1) a raised rear extension roof;(2) additional window at ground floor level; (3) 2 enlarged windows to the rear (south elevation) at first floor level; (4) 2 'standard' windows and (5) a zinc roof to the canopy on the front elevation.

### Location

4 Convent Avenue, Bray, County Wicklow

### Planning Authority

Wicklow Co. Council

### Planning Authority Reg. Ref.

2360256

### Applicant(s)

Kailin Huang and Quingxia Lin

### Type of Application

Retention

### Planning Authority Decision

Grant

### Type of Appeal

First Party

### Appellant(s)

Dara Ó h'Annaidh

**Observer(s)**

Gerard Roche

Park Bolger

**Date of Site Inspection**

30/01/24

**Inspector**

Rosemarie McLaughlin

## **1.0 Site Location and Description**

- 1.1. The appeal site, No. 4 Convent Avenue, is a detached, gable fronted house, located in a mature residential area in the southern part of Bray, Co. Wicklow. To the east, west and south are residential properties. To the north, on the opposite side of the road is a small park and the grounds of a Garda Station. The house has been extended to the rear (south) at ground and first floor.
- 1.2. The rear garden of the appeal site backs onto the northern boundary of the garden of No.72A Meath Road, the home of the appellant. No.72A is an infill site, located broadly to the rear (south) of No.s 1-4 Convent Road, north of No.s 1-3 Sidminton Park and west of No. 72B Meath Road, another infill house which is not illustrated on the OS Map. Access to No. 72A and 72B Meath Road is via an access lane from Meath Road.

## **2.0 Proposed Development**

- 2.1. Retention permission for alterations to planning reg ref 22/113 containing the following:
  - (1) a raised rear extension roof (to match the ridge height of the existing roof,
  - (2) an additional window at ground floor level on the side (west elevation),
  - (3) 2 No. enlarged windows to the rear (south elevation) at first floor level,
  - (4) 2 No. 'standard' windows (replacing bay windows) on the front (north) elevation and
  - (5) a zinc roof to the canopy on the front (north) elevation (replacing a tiled roof).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority (PA) granted permission subject to one condition.

This permission refers to the development as described in the documents lodged, save as the conditions hereunder require. REASON: For clarification.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Report**

- The planning report noted the observation.
- The constructed extension has 7.12m ground to ridge height compared to a permitted 6.8m and is considered acceptable.
- Having regard to the building lines on either side, it is considered that the amenity of the adjoining properties is unlikely to be significantly compromised by overshadowing or overbearing impacts.
- The additional window at ground floor level on the west elevation does not raise significant overlooking issues.
- The 2 No. windows on the south elevation at first floor level are larger than permitted. It is considered that there is no material change in overlooking impacts.
- The 2 No. 'standard' windows on the front (north) elevation and a zinc roof to the canopy on the front elevation are acceptable and do not raise issues in terms of visual amenity.

#### **3.2.2. Other Technical Reports**

- None.

### **4.0 Planning History**

#### **4.1. WCC Planning Ref: 22/113**

Permission was granted on 06/05/2022 for "Demolition of the existing sunroom, kitchen extension, the concrete shed and the chimney stack at rear. To widen the existing vehicle entrance onto Convent Avenue. To construct part single and part double storey extension at rear of the dwelling. Internal alternation works and all ancillary site works", subject to three conditions.

## **5.0 Policy and Context**

### **5.1. Development Plan**

5.1.1. The Wicklow County Development Plan 2022-2028 applies.

- In summary, policy CPO 6.21, provides on lands zoned 'Existing Residential', house improvements, alterations and extensions in accordance with principles of good design and protection of existing residential amenity will normally be permitted. While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.
- Appendix 1 provides Development Management Standards. Section 3.1.3 relates to privacy, and in summary, residential developments shall be so designed and constructed to ensure maximum privacy for residents; windows shall be positioned and designed such that direct intrusion into private living areas from other dwelling units is avoided; a separation of 22m will normally be required above ground level between opposing windows serving private living areas (particularly bedrooms and living rooms), however, this rule shall be applied flexibly: Windows serving halls and landings do not require the same degree of privacy as say balconies and living rooms.

### **5.2. Local Area Plan**

5.2.1. The Bray Municipal District Local Area Plan 2018 – 2024 applies (effective 10 June 2018). The site is zoned 'Existing Residential'.

- The LAP states that the purpose of this zoning objective is to protect, provide and improve residential amenities of existing residential areas. The description for the zoning is to provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity.

### **5.3. Natural Heritage Designations**

No natural designations apply to the subject site. The closest European site is the Bray Head SAC (Site Code 000714), which is approximately 750m to the south.

### **5.4. EIA Screening**

5.5. Having regard to the nature and modest scale of the proposed retention development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and 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 planning history 22/113 is recited, and the appellant considers the planning report on that application as unsatisfactory.
- The Bray LAP objective is stated. The proposed development should take account of protection of existing residential amenity, and this extends to the closest abutting houses with No. 72A Bray Road being the most directly affected.
- The applicants have proceeded with a materially different scheme to what was permitted. The drawings 22/113 confirm the intention of using the enlarged, first floor windows, as living rooms or studies and include desks placed up against two of these windows directly overlooking the appellants home and rear garden. Photographs of the rear elevation of the appeal site are submitted.
- There is departure from the established pattern of development on Convent Avenue. The bedroom windows have been replaced by full height living room windows and brought forward towards the third party to a substantial degree bringing an overbearing impact on the appellants home and privacy.

- In the previous planning application 22/113 window number W3 measured 1.2 metres by 1.1 metre and that should now be shown at 2.77 metres wide and 1.7 metres high. Window number W5 should be properly shown as 2.77 metres wide and 1.7 metres high.
- The area of glazing is increased by over 100%. The dimensions of the windows are queried, and the appellant engaged an architect to provide their measurements for the three windows. There is a contradiction between the stated dimensions and the works as constructed the Inspector is requested to measure the windows.
- It is the appellants opinion that the floors have been inverted with the floor moved upstairs and the bedroom windows transferred to ground level. As these houses are so closely located, this change is disruptive with the consequent loss of privacy.
- The planning report was too brief and narrowly focused and failed to address the aspects of the receiving environment. The unusual layout of these lands was not considered. The appellant's home lies directly behind the application site rather than being on either side of it. Accordingly, there is a very substantial degree of overbearing. The planning authority did not visit the property of the observer.
- The architectural character of the appeal site has been impacted because the proportions of the windows are unbalanced.
- The board is requested to refuse permission but should permission be granted it is requested that the first floor windows be fixed as per the permission reference 22/113.

## **6.2. Applicant Response**

None on file.

## **6.3. Planning Authority Response**

None on file.

## **6.4. Observations**

### **6.4.1. No 72B Meath Road**

An observation has been received from Gerard Roche, No. 72B Meath Road which may be summarised as follows.

- The built development exceeds dimensions in the approved plan and includes windows more than twice the size.
- There is serious concern about the infringement of privacy and aesthetics of the neighbourhood. There is a clear line of sight directly into the observer's kitchen/living room.

### **6.4.2. Avondale, No. 72 Meath Road**

An observation has been received from Park Bolger No 72 Meath Road which may be summarised as follows:

- The very large first floor windows are not typical of the area and such would create a precedent.
- Owing to the proximity of houses to each other, allowing first floor windows that are almost the entire length and width of the first floor allows overlooking of neighbouring properties and the kitchen of the observer.

## **6.5. Further Responses**

None.

## **7.0 Assessment**

7.1. This is a third party appeal against a decision to grant permission for retention of alterations to a permitted development PA Ref. 22113.

7.2. The main issues in this appeal relate to the following.

- Principal of development
- Impact on residential amenity of neighbouring properties – overlooking/privacy/overbearing



- Visual impact
- Assessment of other parts of application

### 7.3. **Principal of development**

7.4. In accordance with the Wicklow Co. Development Plan 2022-2028, CPO 6.21, on lands zoned, 'Existing Residential', extensions in accordance with good design and protection of existing residential amenity are normally permitted. New developments shall have regard to the protection of the residential and architectural amenities of surrounding houses. Accordingly, subject to protection of residential amenity and other issues as discussed below, the principle of the proposed development is acceptable.

### 7.5. **Impact on residential amenity of neighbouring properties – overlooking/privacy/overbearing**

- 7.5.1. The main issue in this appeal, and raised in the observations, is the issue of overlooking that occurs from the first floor windows to be retained. The windows at issue are annotated in the application drawings as W3 and W5. PA Ref. 22113 permitted a rear first floor extension, extending the first floor in a southerly direction c 4.3 m, resulting in the first floor elevation being located c 13.15 and 15.22 m from the northern boundary of the garden of No. 72A Meath Road (owing to the irregular boundary).
- 7.5.2. The appellant has provided a drawing of the original rear elevation on No. 4 Convent Avenue and original windows before the extension was permitted and a drawing of the proposed retention for comparison purposes. I consider that what must be compared is the permitted development (not provided in the appeal) and the proposed retention, as the permitted extension PA Ref. 22113 is final and that decision was not appealed.
- 7.5.3. The house of the appellant, which is one and a half storey, is not located to the rear of the appeal site but to the southeast and therefore the front elevation (north) of No. 72A Meath Road is overlooked at an angle as it was in the original layout and with the permitted development PA Ref. 22113. The main private open space of No. 72A is located to the west (side) of that house, which is directly south of the appeal site and is therefore directly overlooked by the first floor windows of the appeal site. The

living area of No. 72A faces west at ground floor and owing to the angle, the west facing windows at No. 72A are obliquely overlooked but given the distance and design of the fenestration at No.72A, I do not consider that there is any significant overlooking of the main ground floor living area on No.72A unlike a back to back housing situation. An attic level window is set back from the ground floor extension at No.72A is also at an angle to the proposed development. The development management standards provide that generally a separation of 22m will be required above ground level between “opposing” windows serving private living areas and provides this shall be applied flexible. In this case, there are no opposing windows.

- 7.5.4. The permitted window design PA Ref. 22123, allowed direct first floor overlooking of the private open space of the appellants garden from a distance of between c 13.15. to 15.2 m from the northern boundary which is a reasonable distance in an urban situation. The height of the permitted windows has been increased marginally from examining the permitted (non-dimensioned) drawings PA Ref. 22123 against the application/appeal. The main issue relates to the increased width of windows W3 and W5 (where the appellant queries the dimensions on the drawings), which I found as c 2.8m and c 2.51 m wide respectively. The appellant is correct that there is a discrepancy in the drawings in relation to width of W5. While the as built windows allow for a greater degree of overlooking owing to their increased width, I consider that the overlooking was established in the permission PA Ref. 22123.
- 7.5.5. The overlooking of the private open space of No.72A varies in degree in different parts of the garden with window W5 most directly overlooking the open space as W3 overlooks the ground floor extension on the appeal site and the shed located on the appellant’s property. I believe this overlooking would be perceived as less with permitted windows PA Ref. 22123, particularly the widest window W3, but in both cases the overlooking would exist. The private open space has tall deciduous trees along the northern boundary, and it would be expected that these would provide additional screening when in leaf. Photo No. 1 in the appeal (Page 14) appears to have been taken from a height rather than at ground level as the ground floor windows on the appeal site are not readily visible from ground level in the garden of the appellant’s garden.

- 7.5.6. On inspection, it was clear that that the two rear first floor windows in question, W3 and W5, serve bedrooms (one bedroom has a study desk, not facing the window, as well as the bedroom furniture) and the house has not been inverted as stated in the appeal. The first floor small central room on the appeal site that overlooks the garden of No.72A by window W4, has a desk at an angle to the window and is not part of the application/appeal. I note that window has been built narrower than permitted PA Ref. 22113. The appellant submitted the permitted drawing PA Ref. 22113 that illustrated desks facing onto the open space and while that was permitted and is not at issue in this appeal, the desks are facing walls not the appellant's open space.
- 7.5.7. A two storey extension to No. 2 Convent Avenue with first floor glazing exists directly to the north of the northern elevation of No 72A Meath Road and the houses towards the eastern end of Convent Avenue are a different style with first floor elevations closer to the boundary of the access lane. On balance, having regard to the permitted development PA Ref. 22123, the distance between the sites, the planting along the northern boundary and that no opposing windows are located between the appeal site and adjacent properties, I consider the proposal to retain the two first floor windows to be acceptable in this urban situation where the pattern of development includes backland and infill development.
- 7.5.8. No. 72B Meath Road, the home of one of the observers, is an infill bungalow located east of No. 72A and west of No 71 Meath Road, c 35 m southwest of the rear first floor elevation of No. 4 Convent Avenue. Given the distance and angle of the view to their kitchen, I consider the proposal acceptable in this urban situation. I do not consider that No. 72 Meath Road c 64m away as adversely impacted.
- 7.5.9. The issue of overbearance in this planning context is the extent to which the development impacts upon the outlook of the main habitable rooms or the garden of No. 72B. As the scale and mass of the first floor extension has already been approved by PA Ref. 22123, I do not consider overbearance as an issue.
- 7.5.10. In conclusion, having regard to the permitted development PA Ref. 22123, the distance between the appeal site and neighbouring properties and the pattern of development in the area, I consider the proposal to retain the two first floor windows acceptable.

## 7.6. Visual impact

- 7.6.1. The appeal and observation consider that the windows are aesthetically inconsistent with the design of the house, with the neighbouring structures and may set an undesirable precedent. As the windows are to the rear of the property where the pattern of development has several different building styles of different ages, I consider that design of the windows is acceptable.

## 7.7. Assessment of other parts of application

- 7.7.1. As the Board shall determine the application as if it had been made to it in the first instance, I will consider the other elements of the application.

### **A raised rear extension roof, to match the ridge height of the existing roof**

I consider this modest increase as visually acceptable.

### **An additional window at ground floor level on the side (west elevation)**

I consider this window, opposite the side boundary wall of the site as acceptable with no impact on neighbouring property.

### **2 No. 'standard' windows (replacing bay windows) on the front (north) elevation**

No. 4 Convent Avenue is one of 4 detached houses built originally in a uniform manner. While the front elevation has been altered, the amendments to be retained present a modernised frontage and an acceptable alteration.

### **Zinc roof to the canopy on the front (north) elevation (replacing a tiled roof)**

As above, the amendments to be retained are considered an acceptable alteration.

## 7.8. **Appropriate Assessment Screening**

- 7.9. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/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 EIA at an initial stage.

## 8.0 Recommendation

8.1. I recommend that retention permission be granted.

## 9.0 Reasons and Considerations

Having regard to the pattern and character of development in the area, the design and scale of the development to be retained, the previously permitted development on the site by Wicklow Co. Council Ref. 22113, the provisions of the County Wicklow Development Plan 2022-2028 and Bray Local Area Plan 2018-2024, it is considered that, subject to compliance with the condition set out below, that the development to be retained would not seriously injure the residential amenities of the area or surrounding properties. The development to be retained 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 lodged with the application.  Reason: In the interest of clarity.
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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.

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Rosemarie McLaughlin  
Planning Inspector

19<sup>th</sup> February 2024