



An  
Bord  
Pleanála

## Inspector's Report

**ABP-318610-23**

<b>Development</b>	New house in a side garden
<b>Location</b>	Murray's View, Donore, Drogheda, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	2360285
<b>Applicant(s)</b>	Colm Brodigan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to 10 no. conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Orla Cooney & Mark Lynch
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 <sup>th</sup> March 2024
<b>Inspector</b>	Bernard Dee

## **1.0 Site Location and Description**

- 1.1. The appeal site is located within a small residential estate in Donore, Co. Meath a village to the west of the M1 and about 1km west of Drogheda town. The estate Murray's View is accessed from the Staleen Road to the west of Donore Road approximately 150m west from the Village of Donore. There are c. 16 dwellings within the estate all with differing characteristics but all single storey in typology.
- 1.2. The appeal site is located between two houses with the applicant's house to the west and the Appellant's house to the east of the appeal site. The site is narrow but deep measuring approximately 32.5m x 13m. The site area is stated to be 0.061ha. The site is currently in use as a side garden and the boundary between the appeal site and the Appellant's property is defined by a mature hedge measuring approximately 1.3m in height. A hedge also defines the boundary to the south where the proposed entrance is located.

## **2.0 Proposed Development**

- 2.1. The drawings submitted with the planning application indicate that the development will consist of the construction of a single storey detached dwelling house to the side garden of existing dwelling house and formation of new site entrance to service proposed dwelling house, and all associated site development works.
- 2.2. The style of the proposed one bedroom dwelling is nondescript and typical of the architectural style seen in the overall estate. The GFS is stated to be 74m<sup>2</sup> and the proposed dwelling has a footprint of approximately 8m x 15m. The maximum height is stated to be approximately 4.7m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission for the proposed development was granted on 10<sup>th</sup> November 2023 subject to 10 no. standard conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planner's Report, in summary, makes the following points:

- It is considered that the principle of residential development is acceptable subject to normal development control criteria.
- The size scale and massing of the proposed development is in keeping with the character of neighbouring properties where the general pattern of development is single storey.
- Having regard to the single storey nature of the proposal and the satisfactory separation distance between the immediate neighbouring property to the east and the proposed development it is not considered the proposed development would have any significant harmful impact on the residential amenity of neighbouring properties in terms of any overbearing, overshadowing, loss of outlook or loss of natural light or loss of privacy.
- The proposed development would not have a harmful impact on the visual amenity of the area and would not have an adverse impact on the residential amenity of neighbouring properties and would not create a traffic hazard.
- The Planner's Report notes that neither AA nor EIA is required in respect of the proposed development.

### 3.2.2. Other Technical Reports

- The Transport Department had no objection to the proposed development subject to appropriate conditions being applied.

### 3.2.3. Prescribed Bodies

- Irish Water had no objection to the proposed development subject to appropriate conditions being applied.

### 3.2.4. Observations

- There is one submission on file from the current Third Party appellant and a representation from Councillor Stephen McKee in support of the application.

## 4.0 Planning History

### 4.1. On the Appeal Site

- **22/1297** – Colm Brodigan a) Construction of 1 no. single storey detached dwelling house to the side garden of existing dwelling house, b) Formation of new site entrance to service proposed dwelling house, and all associated site development works - REFUSED for the following reason:

*Having regard to the siting, design and limited site area (0.061ha) of the proposed development and where the general pattern of development in the area is defined by large spacing between neighbouring properties, it is considered that the proposed development if permitted would be out of character and constitute a narrow cramped form of development which does not reflect the spatial pattern of development in the area, would result in a poor standard of residential amenity for the intended occupants, would impact on the residential amenity of the existing dwelling and adjoining properties, would depreciate the value of the adjoining properties and set an undesirable precedent for future development in the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

### 4.2. In the Vicinity of the Site

**ABP-317420-23 (23/395)** – Permission granted on appeal for the retention and conversion of a garage at a site approximately 250m south of the current appeal site.

- **Reg Ref 22/1319** - Permission refused for the same proposal as submitted with the appeal, i.e., retention of conversion of the garage for domestic purposes and shed.

## 5.0 Policy and Context

### 5.1. Development Plan

Meath County Development Plan 2021-2027 is the statutory plan for the area within which the appeal site is situated and set down below are the relevant Development Plan policies and objectives in relation to this appeal.

The site is located on lands zoned as existing residential, A1, where it is an objective “to protect and enhance the amenity and character of existing residential communities”.

#### Chapter 3: Settlement Strategy

SH POL 2 To promote the consolidation of existing settlements and the creation of compact urban forms through the utilisation of infill and brownfield lands in preference to edge of centre locations.

SH POL 12 To promote innovation in architectural design that delivers buildings of a high-quality that positively contributes to the built environment and local streetscape.

#### Chapter 11: Development Management and Zoning

##### 11.5.16 Light and Overshadowing

Daylight and sunlight levels should, generally, be in accordance with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011), and any updates thereof.

DM POL 11: New residential development should be designed to maximise the use of natural daylight and sunlight. Innovative building design and layout that demonstrates a high level of energy conservation, energy efficiency and use of renewable energy sources will be encouraged.

#### 11.5.19 a) Infill Sites in Urban Areas

Infill development relates to development located in gaps between existing buildings in built-up urban areas. The Council will support infill development on appropriate sites that make the most sustainable use of serviced land and existing urban infrastructure.

DM OBJ 42: Infill development shall take account of the character of the area and where possible retain existing features such as building line, height, railings, trees, gateways etc.

#### 11.5.20 b) Backland Sites in Urban Areas

Backland residential development relates to small scale development located to the rear of existing buildings in built-up areas. Having regard to the requirement to protect the residential amenity and character of existing A1 zoned residential areas backland site development shall satisfy the criteria for infill development and avoid undue overlooking and overshadowing of adjacent properties.

DM OBJ 43: Backland development proposals shall avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development.

#### 11.5.21 Corner/Side Garden Sites

Corner Site/Side Garden development refers to sub-division of an existing house curtilage to provide an additional dwelling in existing built-up areas.

Larger corner sites may allow for a variation in dwelling design, however, proposals should more closely relate to adjacent dwellings, albeit with a modern design in order to avoid a pastiche development. At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal.

The Council will require corner site /side garden development proposals to have regard to the following criteria: Size, design, layout, building line and the relationship with existing dwellings and immediately adjacent properties; External finishes;

Accommodation standards for the occupants; Car parking for existing and proposed development; Private open space for existing and proposed development; Development Plan standards for dwellings; Side/gable and rear access/maintenance space, where possible.

## **5.2. Natural Heritage Designations**

The site is located c. 1km to the southeast of the River Boyne and River Blackwater SPA and SAC.

## **5.3. EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, 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.

## **6.0 The Appeal**

6.1. The relevant planning grounds of the Third Party appeal are, in summary, as follows:

- The drawings submitted to the Planning Authority do not correctly represent the true scale, size and proximity of the proposed development to neighbouring properties.
- The length of the proposed dwelling has implications in terms of loss of sunlight and overshadowing on the appellant's property to the east of the appeal site.
- The Planning Authority should have insisted that an overshadowing, daylight and sunlight study be submitted with the planning application as per section 11.5.16 of the Development Plan.
- The issues of overlooking and overshadowing have not been fully assessed as required by section 11.5.20 b) of the Development Plan.

- No 3D photomontage or visualisation of the proposed development was submitted in order to assist in assessing the impact of the proposed development on surrounding properties.
- No Appropriate Assessment was submitted with the application in order to assess the potential impact on the environment associated with the proposed development.
- The design of the proposed dwelling is out of character with the established pattern of development in the area and hence contrary to Objective DM OBJ 43 of the Development Plan which seeks to protect the established pattern of the development in an area from inappropriate development.
- The poor design of the proposed dwelling is contrary to Policy SH POL 12 of the Development Plan which seeks to promote high standards of architectural design.

## 6.2. Applicant Response

The First Party response to the Third Party appeal is, in summary, as follows:

- The development of a house within A1 zoned land is acceptable in principle.
- The proposed development is in compliance with Policy SH POL 2 of the Development Plan which seeks to consolidate existing settlements.
- The overall site area of the original house and current appeal site (2,110m<sup>2</sup>) is more than sufficient to accommodate the proposed development on residentially zoned and serviced land in line with sustainability policies at local and government levels.
- There are several other examples within the estate of plots being subdivided and houses being constructed in between existing dwellings.
- The size and scale of the proposed house was scaled back as a result of pre-planning discussions and having regard to the refusal of Ref. 22/1297.
- The proposed dwelling provides satisfactory separation distances between neighbouring properties as per relevant guidelines.



### 6.3. The Planning Authority Response

- The Planning Authority state that all issues raised by the appellant were had regard to during the determination of this application by Meath County Council and no additional comments are put forward in the response.

### 6.4. Observations

- None received.

### 6.5. Further Responses

- Not applicable.

## 7.0 **Assessment**

Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance especially the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

The main issues, therefore, are as follows:

- Principle of Development
- Development Plan
- Impact on residential amenity.
- Impact on visual amenity and character of the area.
- AA Screening.

### 7.1. Principle of Development

I note that residential use is deemed to be a 'Permitted Use' within the A1 zoning objective for the area and that the appeal site forms part of the garden area of the applicant's house. Having regard to these points and to the general objective to increase the residential density of existing settlements, I consider that residential use on the appeal site is acceptable in principle.

## 7.2. Development Plan

- 7.2.1. The Third Party appeal places great reliance on Development Plan policies relating to 'backland development' and that the proposed development is in breach of said policies – Section 11.5.20 b), DM OBJ 43.
- 7.2.2. I can confirm to the Board having visited the site that the appeal site is categorically not a 'backland site.' The appeal site is clearly a side garden and Development Plan policies which relate to this specific type of site need to be applied in the assessment of this case.
- 7.2.3. Section 11.5.21 Corner/Side Garden Sites is the relevant policy in this instance and when measured against the criteria set down in this section of the Development Plan, the proposed development is in compliance with same. Regard must be had to the fact that the design had the benefit of a previous refusal and a pre-application meeting with the Planning Authority which informed the design as submitted and hence the positive outcome for the applicant.
- 7.2.4. The ground of appeal based on breach of policy is without substance and should not be given any weight by the Board in their assessment of this case.
- ## 7.3. Impact on Residential Amenity
- 7.3.1. The appellant states that overshadowing and/or overlooking may occur should the proposed development be permitted. The Appellant also feels that a shadow cast study and 3D modelling should have been carried out to assess the impacts of the proposed house on the Appellant's house to the east of the appeal site.
- 7.3.2. The distance between the side elevations of the existing and proposed dwellings is approximately 8m and there are 4 no. windows on the east elevation of the proposed dwelling. However, 3 no. of those windows relate to a bedroom, a bathroom and a utility room where the overlooking potential is virtually nil given their daytime uses.
- 7.3.3. The fourth window lights the living room area of the proposed dwelling and some incidental overlooking of the neighbouring garden area may occur. This element of overlooking is within acceptable parameters and in any event can be mitigated by a screen planting condition should the Board be minded to grant permission in this instance.

7.3.4. There are 3 no. windows in the Appellant's west elevation facing the appeal site, but regard should also be had to the presence of a mature hedge on the boundary line which will provide a significant degree of screening.

7.3.5. Accordingly, I do not feel that the issue of overlooking is of such a significance to refuse permission for the proposed dwelling.

7.3.6. Regarding the issue of overshadowing, this is clearly not an obstacle to granting permission for the proposed dwelling given the separation distances and the low height of the proposed dwelling. Some evening sun may be blocked but daylight levels in the Appellant's home should not be compromised by the proposed development.

#### 7.4. Impact on Visual Amenity and Character of the Area

7.4.1. The Appellant feels that the design and location of the proposed dwelling is contrary to the established pattern of development in the area and that the style of the proposed structure clashes with its architectural context.

7.4.2. I would point out to the Board that the context is a modern housing estate with a somewhat rustic atmosphere and not an Architectural Conservation Area with a concentration of Protected Structures.

7.4.3. Given the relatively low grade architectural context the proposed dwelling should blend into its context without difficulty and location and design are not an issue for the Board to concern itself with in this instance.

#### 7.5. AA Screening

Having regard to the relatively minor development proposed within an existing housing estate and the fact that there are no European sites in the vicinity of the appeal site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

I recommend that retention permission be granted for the reasons and considerations set out below and subject to the conditions set down hereunder.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Meath County Development Plan 2021-2027, including the zoning objective for the site A1- Residential -to protect and enhance the amenity and character of existing residential communities; it is considered that the proposed development would not materially contravene Development Plan Objective DM OBJ 43, would not injure the visual or residential amenities of the area, or of property in the vicinity and would provide an acceptable standard of amenity for future residents. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 18<sup>th</sup> 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<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>

4.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 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>
6.	<p>The developer shall pay to the planning authority a financial contribution of 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> <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.</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.

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**Bernard Dee**  
**Planning Inspector**

**13<sup>th</sup> March 2024**