



An
Bord
Pleanála

Inspector's Report ABP-319196-24

Development	Retention of a partly built extension to the rear of the dwelling and permission to complete the extension to include lowering of the perimeter walls to facilitate a flat roof design to a height not exceeding 3.2 metres, two number roof lights to the proposed flat roof and all associated site works.		
Location	61 Ashvale Court, Duleek, Co. Meath.		
Planning Authority Ref.	231107.		
Applicant(s)	Keith Rooney.		
Type of Application	Permission	PA Decision	To grant permission
Type of Appeal	Third Party	Appellant	Mr Ruairí Nestor
Observer(s)	Ms Bianca Tierney		
Date of Site Inspection	11 th May 2024	Inspector	Richard Taylor

Context

1. Site Location/ and Description.

The proposed site is located at 61 Ashvale Court, Duleek, County Meath. This comprises a two-storey semi-detached dwelling with hipped and pitched roof. It is finished in brick at ground floor and render to 1st floor with a two-storey bay window feature to the front elevation. There is a garden and parking area to the front with public open space opposite, and further garden area to the rear. The

rear garden comprises a partially constructed extension consisting of block walls on three sides approximately 3-3.5 metres in height with associated poured concrete floor. The extension is approximately 5.4 metres in length and 6.2 metres in width measured externally. The extension is set off the northwestern boundary, varying between 0.5 and 0.6 metres. It is separated from the southern boundary by approximately 1.9 metres. Beyond the extension there is a grassed area broadly rectangular in shape, and approximately 40 square metres in area.

To the rear of the site and approximately 5 metres from the rear elevation of the extension there is a single storey outbuilding/garden room approximately 3 metres in height 7.5 metres in width and 4.8 metres in depth measured externally. Two windows are at either end of the front elevation, with a further centrally located double windowed door. All openings are orientated towards the dwelling. The garden room is separated from the northwestern site boundary by approximately 0.3 metres, and approximately 0.4 metres from the southern boundary. The rear elevation of the garden room is separated from the northeastern/rear site boundary by approximately 1.1 metres. The site is broadly level in terms of topography and rectangular in shape.

To the northeast/rear of the site there are agricultural fields, whilst there are similar dwellings and associated plots immediately adjacent to the northwest, (no. 62) and southeast (no. 60). Common boundaries separating these properties comprise timber panel fencing approximately 1.8 metres in height. There is broadly level topography within the site and relation to adjacent properties. No. 60 has a single storey return extension located adjacent to its southern boundary with an estimated separation distance of approximately 4 metres from its gable wall to the common boundary with no. 61, the appeal site.

2. Description of development.

The proposal comprises the following elements:

- Retention of existing block walls and concrete floor subject to a reduction in height to 3.2 metres above ground level;

- Completion works of extension which is 5.4 metres in depth and 5.8 metres in width. Works include render to external walls, insertion of double sliding doors approximately 4 metres in width, and installation of a flat roof with roof lights;
- Landscaping works including paving areas to the North and South of the extension between the gables and adjacent site boundaries. Installation of raised planters along and adjacent to the northern and southern site boundaries to include low level plants and shrubs.

3. Planning History.

There are two previous applications of relevance to the appeal as follows:

Register number: 212424: attic conversion to habitable space with internal alterations and associated site works. Retention permission granted 7th April 2022.

Register number 23525: Retention permission for single storey extension to rear of dwelling and detached garden room to rear garden and associated site works.

Split decision: granted retention permission for detached garden room subject to six conditions. Refuse permission for single storey extension to rear of dwelling for two reasons as follows:

1. It is an objective of the Meath county development plan 2021- 2027 to require all applications for residential extensions to have “high quality design which respects, harmonises and integrates with the existing dwelling in terms of height, scale, materials used, finishes, window proportions, etc” (DMOBJ 50). The proposed development by reason of its excessive height for a flat roof single storey structure would be out of keeping and fail to integrate with the character and form of the dwelling. The proposed development would be incapable of being satisfactorily assimilated into its surroundings and would seriously injure the amenities and depreciate the value of property in the area. Consequently, it is considered that the proposed development would materially contravene said objective of the development plan, would establish an undesirable future precedent and would be contrary to the proper planning and sustainable development of the area.

2. The development description displayed on the public notices and revised public notices lodged with the application do not accurately describe the nature of development required to complete the works to the satisfaction of the planning authority. The notices have not detailed that permission is required to complete the

development. To permit the proposed development as sought in the public notices would result in a partially completed extension and therefore this would result in a development that would depreciate the value of property in the area; establish an undesirable future precedent and would be contrary to the proper planning and sustainable development of the area.

4. National/Regional/Local Planning Policy

- The operative Development Plan for the area is the Meath County Development Plan 2021-2027 which was adopted on 22nd September 2021, and came into effect on 3rd November 2021. It has regard to national and regional policies in respect of residential development.
- Chapter 3: Settlement and Housing Strategy Self-Sustaining Towns.
- The site lies within the boundaries of Duleek, a Self-Sustaining Town, and the site forms part of a larger parcel of land zoned 'A1 – Existing Residential' under the said Plan. The stated objective for such land is: "to protect and enhance amenity and character of existing residential communities". Guidance at 11.14.6 Land Use Zoning Categories goes on to state:
"Lands identified as 'Existing Residential' are established residential areas. Development proposals on these lands primarily consist of infill developments and the extension and refurbishment of existing properties. The principle of such proposals is normally acceptable subject to the amenities of surrounding properties being protected and the use, scale, character and design of any development respecting the character of the area."
- Chapter 11. Development Management Standards and Land Use Zoning Objectives. 11.4 General Standards applicable to all Development Types
- 11.5.7 Separation Distances
- DM OBJ 18: A minimum of 22 metres separation between directly opposing rear windows at first floor level in the case of detached, semi-detached, terraced units shall generally be observed.
- DM OBJ 21: A minimum distance of 2.3 metres shall be provided between dwellings for the full length of the flanks in all developments of detached, semi-detached and end of terrace houses.

- 11.5.12 Private Open Space: All houses should have an appropriate and useable area of private open space, exclusive of car parking, to the rear of the front building line. The minimum area of private open space to be provided is set out in Table 11.1.

DM POL 7: Residential development shall provide private open space... Each residential development proposal shall be accompanied by a statement setting out how the scheme complies with the requirements set out in Table 11.1:

One/two bedroom: 55sq.m, Three Bedroom 60sq.m. Four bedrooms or more 75sq.m.

- 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.
- 11.5.25 Extensions in Urban and Rural Areas

DM OBJ 50: All applications for residential extensions in urban and rural areas shall comply with the following criteria:

- High quality design which respects, harmonises and integrates with the existing dwelling in terms of height, scale, materials used, finishes, window proportions, etc;
- The quantity and quality of private open space that would remain to serve the house.
- Flat roof extensions, in a contemporary design context, will be considered on their individual merits;
- Impact on amenities of adjacent residents, in terms of light and privacy. Care should be taken to ensure that the extension does not overshadow windows, yards or gardens or have windows in the flank walls which would reduce a neighbour's privacy;

- Extensions which break the existing front building line will not normally be acceptable. A porch extension which does not significantly break the front building line will normally be permitted;
- Dormer extensions shall not obscure the main features of the existing roof, i.e. should not break the ridge or eaves lines of the roof;
- Proposed side extensions shall retain side access to the rear of the property, where required for utility access, refuse collection, etc.
- Ability to provide adequate car parking within the curtilage of the dwelling house.
- In all cases where diversion or construction over existing sewerage and/or water mains is required, the consent of Irish Water will be required as part of the application.

5. Natural Heritage Designations

- This appeal site is not located within or directly adjacent to any Natura 2000 sites. The nearest sites are:
- The River Boyne and River Blackwater SAC (Site Code 002299).
- The River Boyne and River Blackwater SPA (Site Code 004232).
- Boyne Coast and Estuary SPA (Site Code 001957).
- Boyne Estuary (Site Code 004080).
- River Nanny Estuary and Shore (Site Code 004158).

Development, Decision and Grounds of Appeal

6. PA Decision.

The Planning Officer's report dated the 7th February 2024, is the basis of the Planning Authority's decision. Key points are summarised as follows:

Planning history of the subject site is noted, referring to three previous applications.

Submissions received from two parties, concerns summarised as building height of the extension being 3.2 metres, concern about challenges to An Bord Pleanála, loss of light, depreciation of property value, and out of character.

No external or internal referrals issued.

No adverse impact on natural heritage or the environment.

Preplanning consultation undertaken by telephone call in November 2023.

Proposal is acceptable in principle due to the plan zoning for the site as A1 existing residential. Proposed design is acceptable and would not impact on neighbouring amenity.

Proposal is exempt from development contributions in accordance with the Council's contribution scheme 2024- 2029.

Three conditions recommended relating to development carried out in accordance with the submitted details, dwelling and extension to be jointly occupied as a single residential unit, and design and finishes to be carried out in accordance with specified details on the supporting plans.

7. Third Party Appeal. Grounds:

- This third-party appeal is submitted by Mr Ruairí Nestor of 60 Ashvale Court, immediately adjacent to the South of the appeal site. The grounds of appeal are summarised as follows:
- Background: This is a third retention application, relating to three separate builds comprising an attic conversion, a large bar / garden room, and a large extension. The extension was initially refused and resubmitted with a reduced height of 0.3 metres. The council considered the reduction in height as sufficient mitigation for all issues referenced in the previous refusal decision.
- Excessive height: the previous extension permission was considered excessive by the council, with the planning report recommending a reduction in ridge height from 3.5 metres to a maximum of 3 metres. The revised plan has a ridge height of 3.2 metres which is 0.2 metres higher than that stipulated in the previous report. This raises questions of transparency, accountability, consistency and good governance.
- Overshadowing: the previous planning report acknowledged a degree of overshadowing due to the ridge height of 3.5 metres. The reduction in height to 3.2 metres will not resolve this issue. The extension overshadows the rear of the appellants dwelling with significant loss of light into kitchen and “snug” rooms.

- Out of character: the extension, in conjunction with the large garden room at the rear, is not in keeping with the character of the dwelling and the surrounding area.
- Depreciation of surrounding property: The refused previous application included reference to “depreciate the value of property in the area”. This remains a serious concern and despite the reduction in height the probability of house depreciation of neighbouring homes remains a significant concern.
- Enjoyment of home: The build is oppressive and will impact on the appellant’s enjoyment of their home and garden area. There is no consideration of impact on neighbours’ enjoyment of their personal spaces.
- Failure to consider submissions: The planning report gives scant regard to the substance of the submissions made by neighbours. The report does not consider these issues, other than stating “all aspects of the submissions have been assessed and considered in the assessment of this application.” The report is also silent on most of the issues raised in the refused planning retention application.
- Precedent: The proposal would establish an undesirable future precedent.

8. Observation

- An observation was submitted to An Bord Pleanála on 01/04/2024 by Ms Bianca Tierney, 62 Ashvale Court. This is the property attached to, and north of, the appeal site. Comments broadly repeat the issues raised in the grounds of appeal and are summarised as follows:
- Loss of light: the proposal will adversely impact on the adjacent property and kitchen resulting in a loss of early morning sun and throughout the day.
- Height of extension: the height of the proposal at 3.2 metres exceeds the maximum height deemed acceptable in the Council planning report for the previously refused application.
- Impact on character: the proposal does not assimilate with the character of the area.
- Depreciation of property: previously refused application included grounds for depreciation of property and this remains applicable.

- Consideration of issues: submitted observations and issues highlighted in the previous report have not been fully considered in the Council's assessment of the proposal.

9. PA Response

- The planning authority response states that they are satisfied that all matters outlined in the submission were considered in the assessment of the planning application as detailed in the planning officers report and request that the decision to grant permission is upheld.

Environmental Screening

10. EIA Screening

Having regard to the limited nature and scale of development 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.

11. AA Screening

Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and 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. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, 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:

- (a) Principle of Development.
- (b) Excessive height and Amenity impacts.

- (c) Impact on character.
- (d) Devaluation of property.
- (e) Precedent.
- (f) Failure to consider submissions.
- (g) Other issues / conditions.
- (a) Principle of Development.

2.2. The site lies within the boundaries of Duleek, a Self-Sustaining Town, and the site forms part of a larger zoning 'A1 – Existing Residential' in the Plan. The stated objective for such land is: "to protect and enhance amenity and character of existing residential communities". 11.14.6 Land Use Zoning Categories goes on to state:

"Lands identified as 'Existing Residential' are established residential areas. Development proposals on these lands primarily consist of infill developments and the extension and refurbishment of existing properties. The principle of such proposals is normally acceptable subject to the amenities of surrounding properties being protected and the use, scale, character and design of any development respecting the character of the area."

2.3. Having regard to the 'A1 – Existing Residential' land use zoning of the site and its setting, under which the general principle of residential development is deemed to be acceptable subject to safeguards, including those set out under Section 11.5.25 of the Development Plan, I am satisfied that the provision of an extension to the existing detached dwelling subject of this appeal is acceptable in principle subject to detailed considerations.

(b) Excessive Height and Amenity Impacts.

2.4. The appellant refers to the previous planning report recommending a reduction in ridge height from 3.5 metres to a maximum of 3 metres. The revised plan has a ridge height of 3.2 metres which is 0.2 measures higher than that stipulated in the previous report. The reduction in height to 3.2 metres will not resolve this issue. The extension overshadows the rear of the appellants dwelling with significant loss of light into kitchen and "snug" rooms. The planning authority consider the height of the proposal and degree of overshadowing to be acceptable.

- 2.5. The ground floor rear extension projects c. 5.45 metres beyond the rear wall of the existing dwelling. The gable wall of the proposed extension is located approximately 3.3 metres from the gable of the appellants dwelling at the closest point. There is an existing outbuilding structure adjacent to the northern site boundary to the rear of the appellant's property, and a 1.8 metre (approximately) high timber boundary wall. Considerations of overshadowing are therefore within the context of the existing level of overshadowing which arises from these features which has a limiting effect on the appellant's property, in terms of the levels of sunlight and daylight available. The orientation/aspect of the appellant's property is south relative to the appeal property. The path of sun moves from the east in the morning to the west during the day/evening. Accordingly, overshadowing impacts would be limited to the evening and therefore limit the potential impact of the proposed extension on the appellant's property. I am satisfied that the extent and design of the proposed extension and its orientation relative to the appellant's property is such that the proposed development would not result in significant overshadowing of the appellant's property. Overshadowing and height of the proposal is also mitigated by the separation distance to the appellant's dwelling. Within this context I therefore conclude that the impact will be acceptable and compliant with the policy considerations.
- 2.6. In relation to the observer's property, which is located northwest of the appeal site, there will be a degree of overshadowing during the day due to the aspect of their respective sites and proximity to the common boundary. However, I do not consider that the height of the proposal of 3.2 metres would result in an unacceptable impact. The additional 0.2 metre height above that advocated by the planning authority in the previous refused planning report would, in itself, not result in a significantly greater impact. Sunlight would still access the rear of the property albeit later in the day. The relationship and associated aspect are acceptable within this urban context.
- 2.7. The appellant and the observer refer to the proposed extension, in combination with the outbuilding, as intrusive and dominant. Views of both structures would largely be obscured by the boundary treatments and mitigated by the separation distances. Whilst the proposed extension and outbuilding would be/is visible from adjoining properties or their rear gardens would not, in itself, mean that the proposed development would have a significant negative impact on the amenities of neighbouring properties due to overbearance or visual impact. I therefore conclude

overbearance on adjoining properties arising from the proposed development and cumulative impacts will not be significant.

- 2.8. For completeness and clarity, I am satisfied that the proposal will not adversely impact on privacy due to the ground floor location and orientation of windows proposed. I am also satisfied that adequate private amenity space will be retained and taking account of the close proximity of public open space opposite the site.

(c) Impact on character.

- 2.9. The appellant and observer consider that the proposal in addition to the outbuilding would have a negative impact on the character of the area. The planning authority have not raised any concerns in relation to this issue.

- 2.10. The proposal and associated garden area are located to the rear of the existing dwelling. Neighbouring properties are of similar design. The separation distance to the appellant's property, coupled with boundary treatments, mean that there are no public views into the rear of both dwellings. Similarly, there are no views from the public realm north of the appeal site, as views into the rear are obscured by the observer's property and those located further to the north. Therefore, I do not consider that these structures would adversely impact on the character of the area.

(d) Devaluation of property.

- 2.11. The appellant observer state that the proposal, if approved, would result and a devaluation of property within the area as this was cited as part of a refusal reason within a previous case considered by the planning authority. The report associated with that file indicated that a height of 3 metres would be appropriate. The planning authority considered the revised height of 3.2 metres as acceptable and therefore addresses previous concerns.

- 2.12. I have reviewed the provided documentation including the associated report with the previous application that refused a former iteration with a 3.5 metre height. The report indicates that ridge height of 3.5 metres is unacceptable, and that 3 metres would be appropriate for amenity and design reasons. The report does not discuss a rationale as to how that proposal would impact on property values and only refers to this issue within the refusal reason, namely due to the inadequacy of the description and public notices of the previous application not referring to a retained element of

the proposal. The issues with the previous description are corrected in the revised application/appeal description and are therefore no longer applicable. The appellant has not provided any evidence to support their assertion that the proposal would adversely impact on property values. I consider the amenity impacts of the proposal are acceptable for the reasons discussed above. I therefore conclude that the proposal would not result in devaluation of properties within the area.

(e) Precedent.

2.13. The appellant considers that the proposal if approved would result in an undesirable precedent.

2.14. Each case must be assessed on its own merits taking account of the particular circumstances and relevant policies. I do not consider that an unacceptable precedent would result as the proposal would not adversely impact on amenity or character of the area and accords with relevant plan requirements.

(f) Failure to consider submissions.

2.15. The appellant and observer, in summary, state that the planning authority have not adequately taken account of issues raised within submissions in their consideration of the application. The planning authority have not commented on this issue and advised that all issues are considered within the planning report.

2.16. I note the issues raised by the parties in this regard. However, I consider that this is a matter for the planning authority and third parties and outside the scope of this appeal. An assessment of the proposal and associated material considerations are included within this report.

(g) Other issues / conditions.

2.17. The application description refers to roof lights as part of the proposals. Condition 3 refers to design, finish, height and roof materials to be as shown on the plans. However, the supporting plans and documentation provided to me do not include any details of the roof lights or a roof plan. In addition, the submitted elevations do not confirm/annotate the finished material of the external elevations of the extension, rather these are shown graphically. Notwithstanding this, I do not consider that this issue is fatal to the appeal, nor would it prejudice the amenity of any parties due to the typical design nature of roof lights. I consider that this issue can be resolved

through provision of these details for agreement with the planning authority prior to commencement by appropriate planning condition to ensure clarity and accuracy of the proposal. I also consider that it is necessary to include a condition precluding the roof of the single storey extension as amenity space to protect privacy and amenity of adjacent residents. Conditions are suggested below for consideration in the event that the Board grant permission.

- 2.18. I further recommend an additional condition restricting hours of construction in order to safeguard the amenity of existing residents during the construction process, in the event that the Board grant permission. This is not included within the schedule of conditions attached to the decision by the planning authority.
- 2.19. A condition for developer contributions is not necessary in this case as the planning authority have indicated that the proposed development is not within their contribution scheme.

3.0 Recommendation

- 3.1. Having regard to the above it is recommended that retention and permission is granted based on the following reasons and considerations and subject to the attached conditions.

4.0 Reasons & Considerations

Having regard to the provisions of the Meath County Development Plan 2021-2027, in particular the residential zoning of the site, to the prevailing pattern and character of existing development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

1. The development shall be retained/carried out and completed 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 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. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

3. The roof lights and external finishes of the proposed extension (including roof and external wall treatment) shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The flat roof structure over the single storey extension shall not be used as amenity space by occupants of this dwelling and access to this roof structure shall be strictly for maintenance purposes.

Reason: In the interest of protecting residential amenities.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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.

Richard Taylor

Planning Inspector

28th May 2024