



An  
Bord  
Pleanála

## Inspector's Report

**ABP 319269-24**

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<b>Development</b>	Construction of extension and all associated site works.
<b>Location</b>	Garballagh, Duleek, Co. Meath.
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	23/60507
<b>Applicant(s)</b>	Fernand Brown.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	Ger Cline.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	20 <sup>th</sup> June 2024
<b>Inspector</b>	Aisling Dineen

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### Appendix 1 – Form 1: EIA Pre-Screening

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Garballagh, Duleek, Co Meath. Garballagh is located approximately 3.5 km southwest of Duleek.
- 1.2. The dwelling house, the subject of appeal is one of a pair of semi-detached bungalows. Both dwellings have been subject of previous extensions. The adjacent detached property to the east of the appeal site has a rear two storey extension. The properties are set on large sites with private open space established to the rear and south of said properties.

## 2.0 Proposed Development

- 2.1. It is proposed to build a rear extension onto the existing established semi-detached single storey dwelling. The proposed extension will measure 58.7 sq. m. The works will comprise a reconfiguration of the layout of the existing dwelling including providing for a utility and a home office and relocating 2 No bedrooms to the rear of the dwelling in the area of the extension.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority made a decision to grant planning permission on the 21<sup>st</sup> February 2024, subject to generic conditions.

The Chief Executive's decision reflects the planner's report.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The planning authority report discusses the proposal under the following broad headings, *inter alia*; principle of development, siting layout and design, transportation, servicing and flood risk.
- Regarding design the report states that a 58.7 sq. m. flat roof extension to the rear of a 132 sq. m. dwelling is proposed. The ridge line is proposed to match

the existing at 5.02 m. The property to the immediate east is discussed. The planning authority is satisfied that the proposal would not seriously injure the residential amenities of the adjacent property and would have limited visual impacts.

- The proposal is broadly in line with Meath County Councils Rural Design Guidelines and Meath County Development Plan 2021-2027.

#### 3.2.2. Other Technical Reports

None.

#### 3.3. Prescribed Bodies

None.

#### 3.4. Third Party Observations

Meath County Council received third-party submissions from Ger Cline, the adjoining landowner to the east of the appeal site and the appellant in this case.

### 4.0 Planning History

Planning Register Reference No. 21/299 relates to the development of conversion of single storey element at rear of existing dwelling to storey and a half, rear access porch and all associated site works in the name of Fernand Brown. The planning authority issued a decision to grant planning permission.

### 5.0 Policy Context

#### 5.1. Development Plan

5.1.1. The Meath County Development Plan 2021-2027 (MCDP) is the operative plan for the area.

5.1.2. The proposed development site is located within a rural area under strong urban influence.

#### 5.1.3. Relevant Planning Policy / Objectives:

**ABP 319269-24**

**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 50:** Relates to residential extensions in urban and rural area and requires that they comply with specified criteria, including:

- 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.

## 5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located within or in close proximity to, any designated site.
- 5.2.2. River Boyne and River Blackwater SAC site code 002299 and the River Boyne and Blackwater SPA site code 004232 are within 15 km of the site.

## 5.3. EIA Screening

- 5.3.1. Having regard to the type of development which is not a class of development for the purposes of EIA and the limited nature and scale of the proposed development it is considered that 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. Grounds of Appeal

- The proposal, if permitted, would lead to a significant loss of sunlight to the rear of the neighbouring property, in the afternoon and evening in particular to main living area and patio.
- It would lead to a significant loss of solar heat gain and therefore increased heating costs.
- The proposal would have a negative impact on the natural views currently enjoyed by the neighbouring property from the main living area.
- The previous planning application on the subject site 21/299 assessed the impacts on the adjacent property as per the Meath County Development Plan 2013-2019 and it also assessed the precedent established on the adjacent property with regard to an extension.
- It is argued that no consideration was given to planning policy in the planners report and there is no section 'Impact on Neighbouring Property' in the planner's report.
- Excerpts from the Meath County Developments Plans 2013-2019 and 2021 - 2027 are cited, regarding impacts on amenities of adjacent residents.
- The position of the boundary indicated on the particulars submitted is disputed and the boundary is 1.4 metres closer to the proposed extension than indicated. It is argued that the extension would be 0.9 metres to the boundary, leading to greater impacts on the evening sun on the patio of the adjacent property.
- Windows indicated in the planning application overlook neighbouring property as they are higher than the bordering fence.
- There is no objection to the previously approved 'conversion of existing single storey extension element at rear of existing dwelling to a story and a half rear extension', under planning register reference number 21/299 as it is

considered to be less impactful development and is in line with a similar extension on the adjacent property.

## 6.2. Applicant Response

None.

## 6.3. Planning Authority Response

The Board is referred to the Planners report and is requested to uphold the decision of the planning authority.

## 6.4. Observations

None.

## 6.5. Further Responses

None.

## 7.0 Assessment

7.1. Having examined the application and appeal documentation on file and having regard to the 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 the planning authorities' decision to grant permission and I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Principle of Development
- Effluent Disposal
- Impact on the Amenities of Adjacent Property
- Other
- Appropriate Assessment

- 7.2. Principle of Development
- 7.3. The proposal represents a modest extension to an existing vernacular semi-detached dwelling which is presently of modest size. Therefore, the proposal aims to bring the existing dwelling in line with modern standards in spatial terms.
- 7.4. It is noted that the adjacent semi-detached dwelling to the east, the other dwelling in this pair, has previously been extended with a rear two-storey extension, and it appears to have enhanced the dwelling unit in terms of quality of space and generally appears to have aligned it with modern spatial standards.
- 7.5. Having considered the proposal in detail including the relevant policies within the Meath County Development Plan 2021 -2027 including the Meath County Council Rural Design Guidelines 2021 -2027, I am satisfied that the principle of the proposed extension is acceptable subject to an assessment of other relevant planning considerations.
- 7.6. Effluent Disposal
- 7.7. The existing plans and sections show that the existing dwelling is a four-bedroom unit, albeit the bedrooms are small. The extension proposal provides for a four-bedroom unit in total. There is no additional organic loading proposed to the established septic tank and percolation area. All minimum required distances are maintained and the proposal is considered to be compliant with the standards set out in the CoP - Code of Practice (Waste Water Treatment for Single Rural Dwellings) EPA.
- 7.8. Impact on the Amenities of Adjacent Property
- 7.9. The original submission on behalf of the appellant under the planning application and the submission under the appeal both raise concerns about a potential significant loss of sunlight in the afternoon and evening periods and considers that the lack of solar gain could impact heating costs. The appellant also raised the issue of the impacts of natural views enjoyed by the adjacent property.
- 7.10. Having considered the proposal in detail in relation to the natural trajectory of the sun, I note that the subject appeal site is directly due west of the appellants property. In terms of direct sunlight, the appellants' property therefore has the benefit of morning sun, midday sun and afternoon sun. Under the current building



configuration, the late evening sunset, which is due west of the appeal site, would not extend to the appellants property. However, it is noted that that for a brief late evening period, the property would have sight of the sun on its evening trajectory. It is also noted with reference to the photographs on file, that there is another dwelling house situated to the southwest of the appeal site, which impacts sighting of the direct line of the evening sun. Additionally, there is a copse of coniferous trees situated to the west of the appeal site, which also impacts sighting of the evening sun.

- 7.11. Overall, while there may be slight impacts relating to direct evening sunlight, for a short time period, I do not consider that such impacts are significant enough to compromise the residential amenity of the adjacent property. Additionally, I consider that ambient day light levels would remain largely unimpacted by the proposed development.
- 7.12. It is noted that the appellant refers to natural views under his submission. It should be noted that there is no particular right to any particular view or vista under Irish planning law. Notwithstanding this, I do not consider that the proposed extension would significantly deprive the adjacent property of natural views, to any detrimental effect.
- 7.13. It is noted that the established house on the appeal site has 2 No windows on its east elevation, which front the shared boundary with the adjoining dwelling to the east. The proposed extension includes 2 No additional windows on this elevation. Given the distance to the shared site boundary, I do not consider that the 2 No additional windows on this east elevation, would preserve the existing privacy levels of the adjoining property owners. I am of the view point that, in the event that the Board is minded of a favourable decision, that the 2 No proposed additional windows on the east elevation should be omitted and should be replaced with 2 No roof windows on the east roof elevation. Revised plans and elevations should be submitted to the planning authority for approval.
- 7.14. The appeal submission suggests that the planners report did not take residential amenity into account. I disagree with this assertion in that planners report clearly states *'I note the issues raised in the submission however I am satisfied that the extension shall not seriously injure residential amenity and will have a limited visual*

*impact*'. It is apparent that the planner took issues relating to residential amenity into account under his assessment, irrespective of the report layout.

7.15. Other

7.16. The appellant raises issues regarding stated alleged misalignment of site boundaries and therefore ownership issues are in question. It is contended that the site boundaries presented on plans submitted are not accurate. I note that this issue does not appear to have been raised previously.

7.17. The Planning and Development Act 2000 (as amended) is clear that a person, without legal authority, cannot develop land solely based on a grant of planning permission:

Section 34 (13) of the Planning and Development Act 2000 (as amended) states:

*(13) A person shall not be entitled solely by reason of a permission under this section to carry out any development.*

7.18. Furthermore, in relation to boundary disputes it may be noted that the Development Management Guidelines (paragraph 5.13) also makes the point that the planning system is not designed to resolve disputes about title to land/ownership issues. I conclude therefore that the proposed development should not be refused on the basis of a dispute in relation to site boundaries.

7.19. Under the Meath County Development Contribution Scheme 2024-2029 domestic extensions shall be levied for development in excess of 100 sq. m. This exemption is cumulative and limited to 100 sq. m in total per dwelling. The total floor area of the proposed development is below 100 sq. m. Accordingly, a development contribution is not applicable.

7.20. Appropriate Assessment

7.21. The site is not located within or directly adjacent to any Natura 2000 sites. Having regard to the nature and scale of the proposed development which comprises extensions / alterations to an existing habitable dwelling and the existing residential development in the immediate vicinity, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## 8.0 Recommendation

8.1. I recommend that permission be granted.

## 9.0 Reasons and Consideration

Having regard to the provisions of the current Development Plan for the area, the nature, scale and design of the proposed development which comprises extensions / alterations to an existing residential dwelling and having regard to the separation distance between the subject extension and its most proximate neighbouring dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not impact on the residential amenity of adjoining properties and would not be prejudicial to public health. 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, 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The 2 No proposed windows on the east elevation at utility room and home office/bedroom, shall be omitted and shall be replaced by roof windows. Revised plans/elevations shall be submitted to the planning authority for agreement prior to the commencement of development.</p>

	<b>Reason:</b> In the interest of residential amenity.
3.	The existing dwelling and 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.  <b>Reason:</b> To restrict the use of the extension in the interest of residential amenity.
4.	Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.  <b>Reason:</b> In the interest of visual amenity.
5.	Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.  <b>Reason:</b> In the interest of public health
6.	.All surface water generated within site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties or to the effluent disposal system.  <b>Reason:</b> In the interests of traffic safety and to prevent pollution

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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Aisling Dineen  
 Planning Inspector  
 13<sup>th</sup> July 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	319269.24		
<b>Proposed Development Summary</b>	Construction of extension and all associated site works.		
<b>Development Address</b>	Garballagh, Duleek, Co. Meath.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)	<b>Yes</b>		
	<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>			Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
		<b>Conclusion</b>	
<b>No</b>		<b>N/A</b>	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector: Aisling Dineen**

**Date: 13/08/24**