



An
Bord
Pleanála

Inspector's Report

ABP 319284 - 24

Development	Permission for alterations to an existing house including the converting of roof space to habitable accommodation.
Location	Tullakeel, Ardee, Co. Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	23 60544
Applicant(s)	Christopher Rogers.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Christopher Rogers.
Observer(s)	None.
Date of Site Inspection	20 th June 2024
Inspector	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 Tullakeel, which is c. 7.5 km northwest of Ardee in a rural area of Co. Louth. The N2 (Dublin – Derry) national primary route is located c. 2 km east of the site.
- 1.2. The site contains a two-storey dwelling house, which is slightly elevated from road level, and a detached domestic garage.

2.0 Proposed Development

- 2.1. The proposed development provides for two additional habitable rooms at attic level, to be accessed by stairwell and two 2nd floor gable windows on the east and west elevations along with two additional roof light windows on the rear roof slope.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. The planning authority refused planning permission on the 15th February 2024 for the following reason(s):

1. The development by reason of its substandard ceiling height fails to meet the minimum standard as per Building Regulations (2019) Technical Guidance Document F to provide a floor to ceiling height of 2.4m (minimum) across 50% (minimum) of the floor area and as such to permit such a development would result in a substandard level of accommodation for the occupants, set an undesirable precedent for other similar inappropriate development in the vicinity and thus would be contrary to the proper planning and sustainable development of the area.
2. The applicant has failed to demonstrate that the existing wastewater treatment system serving the property is in compliance with the EPA Code of Practice 2021 and can cater for the increase in population equivalent capable of being provided at the site. Accordingly, in its current form, the proposed development is contrary to Policy Objective IU18 of the Louth County Development Plan 2021-2027, as varied, and would, therefore, be prejudicial

to public health and would be contrary to the proper planning and sustainable development of this area

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

3.3. Planning Authority Reports

3.3.1. Planning Reports

- The planners report considers Section 13.9.20 of the CDP - scale, massing, design and external finishes of the proposal. The external works include two gable windows on the 2nd floor and 2 roof lights on the rear roof slope. Regarding residential amenity the proposal would not cause any demonstrable harm to the residential amenities of the neighbouring property to the west due to a 11.3m separation distance to the boundary and 28m to the rear of the neighbouring dwelling.
- The plans show there to be an increase in bedroom numbers from 4 to 6. No details have been provided to account for the increase in bedrooms from 4 to 6 rooms having regard to the EPA Code of Practice 2021.
- Building Regulations requirements for habitable spaces are cited and it is considered that the proposal does not meet the stated requirements.

3.3.2. Other Technical Reports

None

3.4. Prescribed Bodies

None

3.5. Third Party Observations

None

4.0 Planning History

Planning Register Reference Number 05/1527 pertains to the grant of planning permission for a domestic dwelling (4 No Bedrooms) garage and waste water treatment system on the appeal site.

5.0 Policy Context

5.1. Development Plan

Louth County Development Plan 2021 -2027 (CDP)

Lands in this area are designated as Rural Policy Zone 2; under strong urban influence.

HOU 34 - To encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and are climate resilient.

Policy 13.8.35

House Extensions

The extension or renovation of dwellings is generally encouraged and supported as it results in the upgrade and/or improvement to an existing building, maximises the existing building stock, and is often more sustainable than the construction of a new dwelling unit.

Services: If the property is served by an individual on-site wastewater treatment system this system must have the capacity to accommodate any additional loading in accordance with the requirements of the EPA Code of Practice: Domestic Waste Water Treatment Systems (P.E. ≤10) (2021). This may result in the requirement for existing on-site systems to be upgraded to the current standards.

Policy Objective IU 18

To require that private wastewater treatment systems for individual houses where permitted, comply with the recommendations contained within the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021).

5.2. Natural Heritage Designations

The site is located c. 11.5 km west of Stabannan - Braganstown SPA (Site Code 004091).

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and 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. Grounds of Appeal

- The proposal consists of utilising existing roof space in the house for additional accommodation. The new spaces are clearly indicated as 'attic' rooms on the plans and are not to be used for sleeping or living accommodation.
- The type of development is common and is generally accepted by local authorities. Reference is drawn to Co Dublin, Planning Reference No. D23B/0403.
- The waste water treatment system and percolation area were designed and installed in accordance with the parent planning permission for the house. There is no additional load as there are no additional bathrooms or bedrooms. Therefore, the proposed development is not prejudicial to public health.

6.2. Applicant Response

None

6.3. Planning Authority Response

Louth County Council has no further comment to make over and above the original planner's report.

It is noted that the development description is for 'habitable accommodation'. The proposal does not represent quality residential accommodation by reason of its restricted nature and noncompliance with Building Control Regulations (2019) Technical Guidance Document F, a document which is applicable in assisting the planning authority in determining applications for attic conversions.

The planning authority respectfully requests the Board to uphold the decision to refuse permission for this development.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. Having examined all 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' reasons for refusal 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
- Visual & Residential Amenity
- Effluent Disposal
- Quality Accommodation/Building Control Regulations (2019) (TGD F)
- Appropriate Assessment

7.2. Principle of Development

The subject application for permission is for 'habitable accommodation' at attic level in an established two storey dwelling house. I am satisfied that the principle of the subject development is acceptable subject to satisfying relevant planning criterion.

7.3. Visual & Residential Amenity

The proposal includes the provision of two 2nd floor gable windows and 2 additional rear roof windows. Owing to the separation distances to boundaries and the nearest adjacent development, I do not consider that there would be any negative impact on the visual or residential amenities of the area or the adjacent properties.

7.4. Effluent Disposal

7.5. The planning authority's second reason for refusal states that the application failed to demonstrate that the existing wastewater treatment system serving the property is in compliance with the EPA Code of Practice 2021 and therefore the question arises as to whether the existing system can cater for the increase in population equivalent capable of being provided at the dwelling.

7.6. There are no details on file relating to compliance with the EPA Code of Practice 2021 and the appellants submission refers to the EPA assessment carried out under the parent planning permission on site.

7.7. The appellant refers to a planning application reference in a different functional area, which does not have the same site-specific characteristics as the current application/appeal, however it is noted that it refers to retention of attic space.

7.8. The appellant's submission states that there will be no additional loading as the '*new spaces are clearly indicated as 'attic' rooms and are not to be used as sleeping or living accommodation*'. Therefore, it is argued that there is no additional organic load and the proposal is not prejudicial to public health.

7.9. I disagree with this position and as the planning authority has correctly noted, the development description as per public notices clearly states that permission is required for 'habitable accommodation'. The Oxford dictionary definition of habitable meaning 'suitable for people to live in'. Apart from this, the layout of the attic provides for specific storage areas at the rear of each of the attic rooms. This does not imply

that the remaining attic space is also for storage etc, rather the rooms would apparently have a different use.

- 7.10. As there are clearly 4 double bedrooms already extant in the dwelling house, I would have concerns over the potential of additional organic loading relating to two additional habitable bedrooms in this dwelling. It is noted that the septic tank and percolation area pursuant to the original planning permission on the site, provided for percolation trench measurement of 96 metres. This infers that it was designed based on a P.E. (population equivalency) of max. 6 persons.
- 7.11. Based on the lack of sufficient information on the file regarding the potential of increased organic loading and compliance with the CoP, it is considered that it has not been demonstrated that the existing wastewater treatment system serving the property can cater for the proposed development and therefore it is not demonstrated that it is in compliance with the EPA Code of Practice 2021 (CoP) or with policy objective IU 18 or policy 13.8.35 of the CDP.
- 7.12. Quality Accommodation/Building Control Regulations (2019) (TGD F)
- 7.13. Under the first reason for refusal the planning authority has drawn on Building Regulations (2019) Technical Guidance Document F, which requires that a floor to ceiling height of 2.4m (minimum) across 50% (minimum) of the floor area be provided. Each of the proposed habitable rooms provide c. 4.5 sq. m. of floor area of 2.4 m. height, which is considerably short of 50%. The authority considers that to permit such a development would result in a substandard level of accommodation for the occupants and set an undesirable precedent. The planning authority in its submission to the appeal states that this document is applicable in assisting the planning authority in determining applications for attic conversions, which is considered reasonable.
- 7.14. In order to assess this reason for refusal, I refer the Boards attention to a relatively recent order by An Bord Pleanála dated 15th March 2024, ABP 315690-23, under which the inspector made a detailed assessment on the principle of the application of Technical Guidance Document F in the evaluation of an application for retention of an attic space and concluded that the use of this guidance document was outside of the remit of the planning authority.

7.15. However, in accepting the thrust of the overall Inspectors recommendation, the Board applied the following condition to the grant of permission:

The attic space hereby approved shall not be used for human habitation unless it complies with current Building Regulations.

Reason: To provide adequate standard of development.

7.16. Therefore, I consider that based on the above Order, the planning authority is considered to be justified in drawing on this guidance document, in assisting it, when considering quality habitable accommodation and the proper planning and sustainable development of the area.

7.17. It should be noted that the appeal presented above under ABP 315690-23 does not have the same site-specific characteristics as the appeal at hand and is only referred to regarding the specific application of Technical Guidance Document F.

7.18. Based on the above I consider that the first reason for refusal should be upheld.

7.19. Appropriate Assessment

7.20. Having regard to the limited nature of the proposed development and the nature of the receiving environment and the proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

1. The development by reason of its substandard ceiling height fails to meet the minimum standard as per Building Regulations (2019) Technical Guidance Document F to provide a floor to ceiling height of 2.4m (minimum) across 50% (minimum) of the floor area and as such to permit such a development would result in a substandard level of habitable accommodation for the occupants, set an undesirable precedent for other similar inappropriate development in

the vicinity and would be contrary to the proper planning and sustainable development of the area.

2. The applicant has failed to demonstrate that the existing wastewater treatment system serving the property is in compliance with the EPA Code of Practice 2021 and can cater for the increase in population equivalent capable of being provided at the site. Accordingly, in its current form, the proposed development is contrary to Policy Objective IU18 and Policy 13.8.35 in the Louth County Development Plan 2021-2027, as varied, and would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of this area.

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.

Aisling Dineen
Planning Inspector
15th August 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319284-24		
Proposed Development Summary	Permission for alterations to an existing house including converting roof space to habitable accommodation.		
Development Address	Tullakeel, Ardee, Co. Louth.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
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?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Aisling Dineen

Date: 15th August 2024