



An
Bord
Pleanála

Inspector's Report ABP 319285-24

Development	Permission for a proposed dwelling house to the rear of No. 19 Father McCooey Terrace; connection into existing public sewer; new vehicular entrance with footpath crossing; demolition of part of no. 19 Father McCooey Terrace single storey dwelling house to facilitate new vehicular access including all associated site development works
Location	19 Father McCooey Terrace, Callystown, Clogherhead, Co. Louth, A92 PW70
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	23111
Applicant	Patrick Mulroy
Type of Application	Permission
Planning Authority Decision	To grant permission with conditions
Type of Appeal	Third Party
Appellant	Kim McKenna
Observers	None
Date of Site Inspection	19 th May 2024
Inspector	Trevor Rue

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1.0 Site Location and Description

- 1.1. The application site is located in the coastal town of Clogherhead, about 13 kilometres to the north east of Drogheda.
- 1.2. The site, with a stated area of 0.1818 hectares, comprises the curtilage of a semi-detached bungalow in a residential street. The dwelling has sizeable front and rear gardens. The rear garden widens towards the rear of the site, which is over 5 metres above road level.
- 1.3. The rear boundaries of the site, to the south and west of the existing dwelling, are marked by mature hedging. The north-western boundary with the adjoining semi-detached bungalow, No. 20, is defined by wire fencing, while the south-eastern boundary with No. 18 is undefined.
- 1.4. There is no vehicular access to the site. The row of dwellings of which No. 19 forms part is fronted by a wall with gaps for pedestrian access. A small building with a mono-pitch roof lies between the dwellings at Nos. 19 and 18 and straddles the common boundary.

2.0 Proposed Development

- 2.1. It is proposed to demolish an extension measuring 17 square metres to the side and rear of the existing dwelling and to create a vehicular access to the public road with a driveway running alongside the south-eastern site boundary. A concrete block wall and piers would be constructed along that boundary.
- 2.2. The proposed new dwelling, built towards the rear of the site, would be of single-storey construction, rectangular in form, with a floor area of 76 square metres and a pitched roof 4.078 metres in height. Timber cladding would be used on the walls and blue/black slates or tiles on the roof. The curtilage of the new dwelling would be separated from the remaining rear lawn of the existing dwelling by a timber fence.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 15th February 2024, Louth County Council decided to grant permission, subject to nine conditions. Condition 9(a) required provision of visibility splays for a minimum of 40 metres on either side of the entrance from a point 2.4 metres back from the edge of the carriageway.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The planning report was produced on 17th April 2023 and, following the submission of further information by the applicant, it was updated on 9th February 2024. The report provided the reasoning for the authority's decision. The planning authority's assessment may be summarised as follows:

- Having regard to the residential nature of the proposal, the zoning objective for this area and permissions granted for similar types of development on adjoining sites, the proposed development is acceptable in principle.
- The overriding style in this suburban area is single storey. The proposed single-storey design is acceptable and should not injure the character or visual amenity of this area. The garden in which the proposed dwelling would be located is typically large and there is broad policy support for higher density, compact growth and consolidation of urban areas.
- The proposal is satisfactory in regard to private open space for the residents of the proposed dwelling and the existing dwelling. The landscaping plan is acceptable.
- Given the separation distances to other properties, the proposed development would not have any unreasonable impact on residential amenity by reason of overlooking, overshadowing, overbearingness or loss of natural light.
- A report has been submitted giving traffic counts and speeds in both directions along McCooey Terrace. A revised site layout plan provides for sight lines at the proposed vehicular access of 2.4 by 45 metres in the south-easterly

direction and 2.4 by 41 metres in the north-westerly direction, at a height of 0.6 to 1.05 metres above ground level. This is satisfactory given the location, traffic speeds and volumes on the estate road. Plans displaying the entrance detail and section are also acceptable. The owner of No. 18 has confirmed that if the application is successful she will enter into an agreement with the applicant to ensure that the proposed south-eastern sight line is preserved.

Other Technical Reports

- 3.2.2. An Executive Engineer in the Council's Placemaking and Physical Planning Directorate, having examined the further information, had no objection to the granting of planning permission subject to conditions. It recommended that visibility be made available for a minimum of 45 metres on either side of the entrance from a point 2.4 metres back from the edge of the carriageway.

3.3. Prescribed Bodies

- 3.3.1. Uisca Éireann had no objection to the proposal and stated that a connection was feasible.

3.4. Third Party Submission

- 3.4.1. The present appellant, Kim McKenna, and Frank McKevitt, who both reside at 20 Father McCooey Terrace, made a submission to the planning authority, which may be summarised as follows:

- In recent years they have refurbished their dwelling, extending to the rear to overlook their spacious south-facing garden.
- They have concerns about the integrity of the existing estate built in the mid Twentieth Century. A dwelling to the rear of the adjacent site would be incongruous in its setting amid open gardens. It would set a dangerous precedent for undesirable backland developments. Several dwellings in the estate have in recent years been extended and they would have no objection to a similar form of development on the application site.
- The plans originally submitted appeared to show the line of sight running behind the wall and pillar of the adjoining property, 18 Father McCooey Terrace.

4.0 Planning History

- 4.1. On 19th September 1973, the Council received an application for planning permission for an extension to dwelling house at 19 Father McCooey Terrace.
- 4.2. On 29th August 2019, the Council received an application for planning permission for a vehicular access and footpath crossing to a proposed 1½-storey dwelling and domestic garage to the rear of 19 McCooey Terrace and demolition of part of No. 19. The application was deemed withdrawn on 12th April 2021.

5.0 Policy Context

5.1. Development Plan

- 5.1.1 Map 3.3 of the Louth County Development Plan 2021-2027 shows the application site within the settlement boundary of Clogherhead and in Land Use Category A1, Existing Residential. It is stated in Section 13.21.5 of the Plan that the objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Generally permitted uses include residential. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties.
- 5.1.2. Policy Objective CLOG 4 in Volume 2 of the Plan is to support and encourage residential development on under-utilised and/or vacant lands (in Clogherhead) including “infill” and “brownfield” sites, subject to a high standard of design and layout being achieved.
- 5.1.3. Chapter 3 of the Plan relates to the county as a whole. Policy Objective HOU 15 is to promote development that facilitates a higher, sustainable density that supports compact growth and the consolidation of urban areas, which will be appropriate to the local context and enhance the local environment in which it is located. Policy Objective HOU 32 is to encourage and promote the development of underutilised infill, corner and backland sites in existing urban areas subject to the character of the area and environment being protected.

- 5.1.4. Section 13.16.7 of the Plan states that all new entrances and junctions will require clear and unobstructed sight lines. If the development is in towns, these sight lines shall be selected using the Design Manual for Urban Roads and Streets (DMURS). Any development shall take into consideration the typical speed (not speed limit) of the road.

5.2. National Guidance

- 5.2.1. Section 4.4.4 of DMURS, published by the Government in May 2019, explains that the minimum level of forward visibility required along a street for a driver to stop safely, should an object enter its path, is based on the stopping sight distances (SSD). The SSD has three constituent parts – perception distance, reaction distance and braking distance. Table 4.2 indicates that the SSD standard for an access on to an urban road with a design speed of 50 kilometres per hour (km/h) is 45 metres in each direction. Where the design speed is 40 km/h, the SSD standard is 33 metres. Design speed is defined on Page 64 of DMURS as the maximum speed at which it is envisaged/ intended that the majority of vehicles will travel under normal conditions.
- 5.2.2. Section 4.4.5 of DMURS states that visibility splays are applied to priority junctions where drivers must use their own judgement as to when it is safe to enter the junction. They are composed to two elements – the X distance and the Y distance. The X distance is the distance along the minor arm from which visibility is measured. The Y distance is the distance a driver exiting from the minor road can see to the left and right along the major arm. In urban areas a maximum X distance of 2.4 metres should be used. The Y distance along the visibility splay should correspond to the SSD for the design speed of the major arm taken from Table 4.2. In general, junction visibility splays should be kept clear of obstructions.
- 5.2.3. The procedure for checking visibility splays at junctions is illustrated in Figure 4.63 of DMURS. Where there is no constraint on overtaking, an additional check is made by drawing an additional sight line tangential to the kerb, or edge of roadway, to ensure that an approaching vehicle is visible over the entire Y distance.
- 5.2.4. Section 4.4.6 of DMURS states that where changes in the alignment of roads and streets occur, the forward sight distance is reduced. The caption on Figure 4.66 states that forward visibility at horizontal curves needs to take account of SSD values.

5.3. Natural Heritage Designations

- 5.3.1. The nearest Natura 2000 site of nature conservation importance to the application site is Clogherhead Special Area of Conservation (SAC), which is about 1.6 kilometres to the west. Its qualifying interests are sea cliffs and dry heaths.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area, there is no real likelihood of significant effects on the environment and the need for submission of an environmental impact assessment report and carrying out of environmental impact assessment can be ruled out by preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The road traffic engineering solution as approved is not in compliance with DMURS, specifically the following Sections, which were attached to the appeal form:
- 4.4.4 Forward Visibility
 - 4.4.5 Visibility Splays
 - 4.4.6 Alignment and Curvature

6.2. Applicant Response

- 6.2.1. The applicant did not respond to the Board's invitation to make submissions or observations within the period specified.

6.3. Planning Authority Response

- 6.3.1. The Council had no further comment to make.

7.0 Assessment

7.1. Issues

7.1.1. Having inspected the site and considered in detail the documentation on file for this third-party appeal, it seems to me that the main planning issues are:

- the impact of the proposed development on the character and amenity of the established residential area; and
- its impact on the safety and convenience of road users.

7.1.2 I must also consider whether an appropriate assessment (AA) is required pursuant to the European Union Habitats Directive (92/43/EEC).

7.2. Impact on the Established Residential Area

7.2.1. The Louth County Development Plan supports the development of underutilised backland sites in existing urban areas such as Clogherhead, provided the quality, character and amenity of the area is protected. The application site comprises one of the largest residential plots in Father McCooey Terrace and is in principle a strong candidate for backland development.

7.2.2. I agree with the planning authority's analysis that the construction of the proposed single-storey dwelling would not injure the character or visual amenity of the area. The layout provides for adequate private open space for the residents of the proposed dwelling and the existing dwelling. The landscaping scheme is satisfactory. The separation distances are such that the development would not have any unreasonable impact on residential amenity.

7.2.3. The appellant and her partner have built a two-storey rear extension to their house at 20 Father McCooey Terrace, from which they have an attractive view over their extensive well-maintained garden. I am not convinced that their outlook would be unduly impaired by the proposed dwelling, given the distance between the buildings, their orientation and the proposed landscaping. Backland development is already a feature of St. Michael's Terrace immediately to the north of the appellant's property and I do not consider that the proposed dwelling would be incongruous in its setting.

7.3. Safety and Convenience of Road Users

- 7.3.1. As the submitted site plan shows, the proposed development would not only require the removal of the rear extension to 19 Father McCooey Terrace; it would also require the removal of that part of the small building with a mono-pitched roof which lies within the curtilage of No. 19.
- 7.3.2. The speed limit on Father McCooey Terrace is 50 kilometres per hour. The automatic traffic count survey indicates that over the week 27th July to 3rd August 2023, the 85th percentile speed in either direction along the street never exceeded 40 km/h. Section 13.16.7 of the Development Plan requires, the typical speed (not the speed limit) to be taken into account when applying the DMURS standards. Visibility splays of 2.4 by 33 metres are therefore required at the site entrance.
- 7.3.3. The revised site plan shows a visibility splay of 2.4 by 45 metres to the right emerging. It shows three alternative means of calculating the Y distance to the left emerging – 32.5 metres to the near side of the road without crossing the centre line; 36 metres to the near side of the road without crossing the far side of the road; and 41 metres when crossing the far side of the road. It seems to me that in accordance with Figure 4.63 of DMURS, the first of these methods of calculation should be applied in this instance. As there is a very small difference between 32.5 metres and 33 metres, I conclude that the proposed Y distance depicted on the revised site plan is acceptable and that, subject to the provision of the proposed visibility splays, the proposed development would not prejudice the safety and convenience of road users.

7.4. Appropriate Assessment Screening

- 7.4.1. Having regard to the nature and modest scale of the proposed development, the location of the application site in an urban area where services are available and the distance from the nearest European site, it is possible to screen out the requirement for the submission of a Natura impact statement and the carrying out of an AA at an initial stage.

8.0 Recommendation

- 8.1. I recommend the Board to grant permission subject to the conditions set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the Louth County Development Plan 2021-2027, Policy Objectives HOU 15, HOU 32 and CLOG 4, and to the Design Manual for Urban Roads and Streets, it is considered that, subject to compliance with the conditions set out below, the proposed development for residential purposes of an underutilised backland site in an existing urban area would not adversely affect the character or seriously injure the residential amenities of the area or prejudice the safety and convenience of road users.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 26th January 2024.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of any other site preparation or construction works, full visibility shall be made available for at least 32.5 metres on either side of the proposed access from a point 2.4 metres back in from the edge of the road carriageway over a height of 1.05 metres above road level, as indicated on the approved site plan, Drawing FSDP/PM/FI/01. These visibility splays shall be permanently retained and no impediment to visibility shall be placed, planted or allowed to remain within the visibility triangle.</p> <p>Reason: In the interest of traffic safety.</p>
3.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>

4.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The developer shall enter into water and wastewater connection agreements with Uisce Éireann.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays inclusive, between 8.00am and 5.00pm on Saturdays, and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.</p> <p>Reason: To safeguard the residential amenities of property in the vicinity.</p>
7.	<p>All screening and landscaping works shall be completed within the first planting season following commencement of development in accordance with the approved site plan, Drawing FSDP/PM/FI/01. Any trees and hedging which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity</p>
8.	<p>The developer shall pay to the planning authority a financial contribution 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. The contribution shall be paid prior to the 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or,</p>

	<p>in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 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>
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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.



TREVOR A RUE

Planning Inspector

26th May 2024