



An
Bord
Pleanála

Inspector's Report

ABP-319790-24

Development	Retention for additional floor area on first floor extension, additional height to side and rear elevations to form attic extension and additional windows to side gable and roof (previous planning ref.: 22/391)
Location	2 Clonminch Avenue, Clonminch, Tullamore, Co. Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	2360026
Applicant(s)	Ausaf and Sabeen Mohammad
Type of Application	Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party (1. No.)
Appellant(s)	Arthur Halligan & Ben Somers
Observer(s)	None
Date of Site Inspection	22/8/2024
Inspector	Bébhinn O'Shea

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1.0 Site Location and Description

- 1.1. The site is located in a residential estate in Tullamore County Offaly and comprises a corner site located at the junction of Clonminch Avenue and Ashley Court. The site contains a large 2 storey dwelling, which has a has been extended to either side and to rear, finished in plaster, stone and slates to roof. Adjoining sites each contain a two storey detached dwelling, of lesser proportions and form, with brick/render finish.

2.0 Proposed Development

3.0 Retention permission sought for

- an extension at attic level (over ground floor) providing two walk-in closets off of bedrooms 3 and 4 (southern side of building)
- an additional first floor extension area, shown as part of bedroom one, incorporating box dormer on front elevation, window on northern gable elevation and rooflights to rear.

4.0 Planning Authority Decision

4.1. Decision

The Planning Authority initially issued a Further Information Request in relation to DMS-55 of the County Development Plan, a daylight and sunlight assessment of impact on adjoining properties, clarification of certain details and an invitation to comment on the third-party submission.

On foot of the Further Information response, permission was granted by the Planning Authority subject to 5 conditions including

- C2 Revisions providing for a reduction in scale of the first floor window on the northern elevation
- C3 Surface water management
- C5 Restricting use of development/subdivision.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- The first Planning Report requested Further Information as follows:
 - Written assessment against the provisions of DMS-55 (development management standards for extensions) of the County Development Plan.
 - Daylight and sunlight assessment of impact on adjoining properties
 - Clarification of GFA of dwelling and outbuilding
 - Additional/revised/accurate drawings
 - Revised elevation providing reduced first floor window on northern elevation
 - Invitation to respond to third party submission.
- The second Planning Report concluded that the development would not result in a detrimental impact on the adjoining properties and concluded that the development was suitable. A grant of planning permission was recommended.

4.2.2. Other Technical Reports

- Environment & Water services – no objections

4.2.3. Conditions

- Condition 2 of the Planning Authority's grant of permission is noted, and considered specifically in the assessment below.

4.3. Prescribed Bodies

None

4.4. Third Party Observations

An observation was received on behalf of two parties, on the initial application and a second observation following receipt of Significant Further Information. The matters raised are reflected in the grounds of appeal, and also include the following:

- Shading and loss of sunlight to adjacent properties especially 1A Ashley Court
- Overbearing scale

5.0 Planning History

22/391 Permission for a first floor bedroom extension and separate attic conversion to existing dwelling including elevational changes and ancillary works

Subject to 6 conditions. Noted that attic conversion referenced in description of development relates to attic over single storey element at south/southwest.

19/451 Permission granted for a two storey extension to side and single storey sunroom extension to rear of existing house including all ancillary site works.

Subject to 7 conditions. Condition 2, requiring the submission of a revised section drawing showing single storey extension to the south/southwest, noted.

6.0 Policy Context

6.1. Development Plan

- Offaly County Development Plan 2021-2027 (OCDP)

CSO-04 sets out that during the transition period between adoption of this County Development Plan and the adoption of the Local Area Plan for Tullamore policies and standards in the County Development Plan shall apply to Tullamore and Birr.

Zoning: Tullamore Town Plan Zoning Map: Existing Residential

Relevant Policy of OCDP:

- DMS-55 Extensions
- DMS-11 Corner Sites
- DMS-12 Daylight, Sunlight and Overshadowing.

6.2. Natural Heritage Designations

SAC 000571– Charleville Wood SAC – c. 1.5km from the site

6.3. EIA Screening

- 6.3.1. The proposed development does not fall within the scope of a Class of development for the purposes of EIA (See Appendix 1 attached) therefore EIA screening or EIA is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- The works constructed differ to that granted under history application Ref 22/931
- The details requested by Further Information not received.
- Statutory procedures were not followed; a number of court judgements are referenced.
- A material contravention of the County Development Plan Section 13.9.1 DMS 11 Corner Site Development occurs.
- The development extends beyond building lines.
- The development is overdevelopment of the site
- The duration for which retention permission is sought is not stated.
- Retention application should have included walls and shed on the site.

7.2. Applicant Response

The applicant's response:

- Restates some of the planning history of the site and outlines changes made during construction which led to the subject application for retention.

- States that changes to window were agreed with the relevant neighbour.
- States that the amenity of adjoining properties are not compromised, as per daylight assessment due to building line, roof lights being pre-existing, no windows in gable of house to south/southwest, and window in northern gable facing onto corner of site to front of adjoining property, and serving a bedroom.
- The changes are acceptable in the context of a stand-alone individually design dwelling on corner site.
- The requirements of the planning process were met and the court judgements referred to are not relevant.

7.3. Planning Authority Response

No response.

7.4. Observations

None

7.5. Further Responses

None

8.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- The impact of the development on the amenities of adjacent properties, in so far as the development differs from that granted permission under 22/391.
- The impact of the northern elevational treatment, including window, on visual amenity, the public realm and in terms of overlooking.

- Procedural matters
- Material Contravention

8.1. Amenities of adjacent properties

I note that the building line is established by the ground floor elements of permission granted under 22/391. In terms of the first-floor elements now under consideration, I consider the building line acceptable in visual terms.

Having inspected the wider residential area, I note it is comprised of large, detached houses, of various style and forms, on relatively small sites. Most dwellings in the vicinity would benefit from increased curtilage/separation distance in terms of providing better visual relief. I do not believe the development to be retained results in any feature out of keeping with what already exists in the area.

As stated, the main form/scale of the subject extensions were permitted under 22/391 and that this assessment relates to the additional area, for which retention permission was sought under 23/60026.

Having considered the relationship of the area to be retained with the adjacent dwelling to south-west, I do not consider that the development to be retained will impact unduly on the amenities of that property. This element consists of the conversion of the previously permitted attic level over the ground floor structure, slight additional floor area above at first floor level matching that at ground floor level in Bedroom 4, and revised roof profile. I consider it a minor change.

Having considered the relationship of the development proposed to be retained with the adjacent dwelling to north-west, I have compared the layout, roof form and height to that permitted under 22/391. I note discrepancies in the drawings on 22/391 which hamper easy comparison, in particular side elevations are mirrored/reversed, and section drawings incorrectly labelled. However, having considered all documentation and having an understanding of the above, I am satisfied that the development to be retained is a moderate addition of c. 7 sq. m, following the form of the extension permitted under 22/391, and will not, in terms of built form, be overbearing or impact unduly on the amenities of the property to the north-west. This assessment includes the rooflights present on the rear elevation, which I note would also typically be

considered Exempted Development under the provisions of Section 4 (1)(h) of the Planning and Development Act 2000, as amended.

I am satisfied that the development proposed to be retained will not result in undue overshadowing of adjacent properties. It is again noted that this appeal relates to minor additional floor area at first floor level, and not the main form/height of the extensions which were permitted under 22/391. In terms of shadows cast, the floor area for which retention permission is sought is absorbed into the bulk of the dwelling and I am of the opinion that the impact outside the property of these elements is negligible.

8.2. Northern elevational treatment

An additional window is now present in the northern elevation of the extension at first floor level, serving bedroom one. I note Condition 2 of the Planning Authority decision:

Within 3 months of the final grant of planning permission being issued, the Applicant shall submit for written agreement with the Planning Authority, a revised elevation and floor plan which show the scale of the 1st floor, bedroom 1 window on the northern elevation suitably reduced in scale. The development shall be fully constructed in accordance with these agreed particulars within 12 months of the granting of this permission,

The extent of the reduction required is not specific.

The rationale for this condition is set out in the Planner's report and relates to concerns regarding the visual impact of the window and views into the dwelling from the public road.

Neither party has commented on Condition No. 2.

I note that the bedroom is also served by a long box dormer window on the front elevation and as such the gable window is not required for natural light. I consider that the introduction of fenestration at this gable location is of benefit in terms of active facades and surveillance of the public domain, as per DMS-11 of the OCDP. I also consider a window in this elevation important in terms of reducing the perceived bulk of this elevation, and I consider the solid-void proportion acceptable. I consider

that concerns regarding privacy for the bedroom can be addressed from within the dwelling. There is no direct overlooking of the curtilage of the dwelling to the north-west. I do not consider that a reduction in the size of the window will reduce any perceived sense of overlooking, or that the adjacent occupier would be prejudiced by the omission of this condition. I therefore consider this condition unnecessary, in the event of a decision to grant permission.

8.3. Procedural Matters

In terms of procedural matters and court judgements cited in the appeal

- The current application seeks to regularise differences between permission granted under 22/391 and the development constructed.
- I note that the Planning Authority deemed the response to Further Information adequate. I note that section drawing C-C was submitted along with details of other structures on site. The requirement for permission for these structures is a separate matter for the Planning Authority.
- I consider that it is reasonable, given the nature of the development, to conclude that the development is proposed to be retained for a permanent period.

As such I consider the drawings in their entirety to satisfy the requirements of the Planning Regulations and that no significant procedural issues arise.

8.4. Material Contravention

The grounds of appeal include Material Contravention of Section 13.9.1 of the OCDP, DMS-11 Corner Site Development.

As set out in the above assessment, I am satisfied that the development proposed to be retained has sufficient regard to

- Size, design, layout, relationship with adjacent properties;
- Impact on the amenities of neighbouring residents;
- The existing building line and roof profile of adjoining dwellings;
- The character of adjacent buildings to create a sense of harmony;

- The provision of active street frontages and dual frontage development
- Side/gable and rear access/maintenance space;
- Level of visual harmony, including external finishes and colours;

and thus a Material Contravention does not arise.

8.5. **Development Contributions**

I note that the Planning Authority did not attach a condition requiring the payment of a financial contribution in accordance with the Offaly County Council Development Contribution Scheme 2021-2025. I further note that a condition was not attached either on history application 22/391. While noting Section 10 a) of the scheme which states that all planning permissions granted shall be subject to the Development Contribution Scheme, the scheme requires payment of contributions per residential unit and does not reference domestic extensions. As such I consider that development contributions are not applicable, as no additional residential unit has been formed.

9.0 **AA Screening**

I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located c. 1.5km from the Charleville Wood SAC. The proposed development comprises the retention of extensions to a dwelling.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The small scale and nature of the development
- The location and distance from the nearest European site and lack of connections
- Taking into account the screening report/determination by Offaly County Council.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

I recommend permission be granted.

11.0 Reasons and Considerations

Having regard to the provisions of the Offaly County Development Plan 2021-2027, in particular policies DMS-11, DMS-12, and DMS-55, the nature and scale of the development proposed to be retained and the planning history on the site, it is considered that, subject to compliance with the conditions as set out below, the development would not seriously injure the residential or visual amenities of the area and would be in accordance with the provisions of the County Development Plan. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1.	<p>The development shall be retained 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The existing dwelling and the subject extension shall be jointly occupied as a single residential unit and the extension shall not be used, sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity</p>

3.	<p>The disposal of surface water shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: To prevent flooding and in the interests of sustainable drainage.</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.

Bébhinn O'Shea
Senior Planning Inspector

11/09/2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319790-24			
Proposed Development Summary	Extension and alterations to dwelling			
Development Address	2 Clonminch Avenue Tullamore Co. Offaly			
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)	Conclusion
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: _____

Date: _____