



An
Bord
Pleanála

Inspector's Report ABP-320018-24

Development	Retention of dormer extension to rear of house, plant room extension, alterations to all elevations, garden shed/hobby room in rear garden and wastewater treatment system.
Location	Thistledown, Callowhill Lower, Newtownmountkennedy, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2360301
Applicant(s)	Simone Kavanagh & Jim McDonnell
Type of Application	Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Noreen Eager
Observer(s)	None
Date of Site Inspection	01/10/24

Inspector

Kathryn Hosey

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.165 ha and is located in a rural area at Callowhill Lower, Newtownmountkennedy, Co. Wicklow. The appeal site is located c.1.2km from Newtownmountkennedy urban centre. The site comprises a dormer style dwelling and single storey domestic shed and is accessed off a local road.
- 1.2. There are 6 dwellings located adjacent to the west of the appeal site including the appellants dwelling which is neighbouring the appeal site and comprises a single storey dwelling. The appeal site adjoins open agricultural lands to the east and to the rear.
- 1.3. The development the subject of this appeal has been completed.

2.0 Development to be Retained

- 2.1. The applicant is seeking retention permission for a dormer box extension constructed to the rear of the existing dwelling, plant room extension, alterations to all elevations of the dwelling, garden shed/hobby room (22sq.m) and installation of a wastewater treatment system and soil polishing filter.

3.0 Planning Authority Decision

3.1. Decision

Wicklow County Council issued notification of decision to grant permission by order dated 30th May 2024. The decision to grant permission for the retention of the development was subject to seven no. standard conditions. Conditions of note are the following conditions:

- Use of shed for private domestic use and not habitable accommodation (condition no. 3).
- Removal/backfilling of existing septic tank (condition no. 7).

3.2. Planning Authority Reports

3.2.1. Planning Reports

Two no. planning reports have been included in the planning application documentation.

The initial planning authority report detailed their assessment of the dormer box extension, ground floor plant room extension, changes to dwelling elevations, garden shed/hobby room and the wastewater treatment system. This report concluded that further information was required. The further information request can be summarised as follows;

- Clarification regarding the use of the shed/hobby room structure for habitable purposes.
- Questioned the need for a WC and kitchen to serve the shed/hobby room
- Clarification if the shed/hobby room is to be connected to the wastewater treatment system.

Report no. two deals with the further information response received. This final report can be summarised as follows;

- The applicant confirmed that the shed/hobby room structure will not be used for permanent human habitation.
- The kitchen facility has been removed from the shed/hobby room structure. The WC remains.
- The shed is connected to the wastewater treatment system – supporting documentation submitted from the designer of the wastewater treatment system submitted.
- The Planning Officer was satisfied with the further information response with regards to the use of the shed and its connection to the wastewater treatment system. This report also concluded that *'due to the location of the window, it will not result in overlooking of the neighbouring garden.'*
- The Planning Officer recommended permission be granted subject to seven conditions.

3.2.2. Other Technical Reports

- Senior Environmental Health Officer: Report no. 1 recommended that further information be sought to clarify if the 2 structures to the rear were habitable.

Clarification was also sought as to whether these structures were to be connected to the wastewater treatment system.

Report no. 2 assessed the further information submitted and commented as follows; The submission stated that the shed is not in use for habitable purposes. This report also commented that they are satisfied with the submitted certification of the wastewater treatment system provided any habitable structure within 10m is removed from the site.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One no. submission was received from Noreen Eager who is a neighbouring resident located to the south-west of the appeal site. The grounds of appeal can be summarised as follows:

- The scale, bulk and height of the development will have serious impact on their property.
- History of the application site has been raised with regards to P.A ref: 05/2474.
- Concerns regarding overlooking of private rear garden space.
- Site layout plan is deficient and does not show all structures, effluent treatment systems etc within 100m of the site.
- The layout plan does not indicate contour levels for the site and does not represent size/extent of adjacent house.
- Elevation drawings are deficient and do not make reference to the main features of buildings contiguous to the structure.
- Discrepancies regarding effluent treatment system certification and testing.

- Concerns regarding the use of the house as a bed and breakfast or other commercial use.
- Reference has been made to a warning letter issued by Wicklow County Council on 17th August 2023.
- The appellant has requested that obscure/frosted glass be installed should planning permission be granted.

4.0 **Planning History**

P.A. Ref. No. 05/2474; Planning permission was granted by Wicklow County Council for new roof to provide habitable attic space and upgrade to septic tank system to biocycle unit.

5.0 **Policy Context**

5.1. **Development Plan**

The appeal site is governed by policies and objectives outlined within the Wicklow County Development Plan 2022 – 2028 which came into effect on the 23rd October 2022.

Section 4.2 County Wicklow Settlement Strategy

The appeal site is located in level 10 The rural area (open countryside) of the Wicklow County Development Plan.

Appendix 1 – Development & Design Standards, Section 3.1.8 House Extensions;

“The construction of extensions to existing houses will be encouraged generally as it usually provides a less resource intensive method of expanding living space than building a new structure. Given the range of site layouts prevailing, it is not possible

to set out a set of ‘rules’ that can be applied to all extensions, but the following basic principles shall be applied:

- The extension should be sensitive to the existing dwelling and should not adversely distort the scale or mass of the structure;*
- The extension shall not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed;*
- In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities. If for example a two-story dwelling already directly overlooks a neighbour’s rear garden, a third storey extension with the same view will normally be considered acceptable;*
- New extensions should not overshadow adjacent dwellings to the degree that a significant decrease in day or sunlight entering into the house comes about. In this regard, extensions directly abutting property boundaries should be avoided;*
- While the form, size and appearance of an extension should complement the area, unless the area has an established unique or valuable character worthy of preservation, a flexible approach will be taken to the assessment of alternative design concepts.”*

5.2. Natural Heritage Designations

The following natural heritage designations are located in the general vicinity of the proposed development site;

- Vartry Reservoir Proposed Natural Heritage Area (Site Code: 001771), approximately 5.2km to the west of the appeal site.
- Carriggower Bog Proposed Natural Heritage Area (Site Code: 000716), approximately 4.3km to the north-west of the appeal site.

5.3. EIA Screening

The proposed development does not come within the scope of EIA, as it is not a project to which EIA applies.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal that has been submitted against the decision of Wicklow County Council. The grounds of appeal can be summarised as follows:

- The appellant has stated that Wicklow County Council refused dormer windows under P.A Ref: 05/2474.
- Concerns regarding overlooking of rear garden.
- The appellant has requested should planning permission be granted that a condition be attached requiring obscure glass be installed in all windows in the dormer extension.
- An enforcement file was opened on the site under P.A Ref: UD5718.

6.2. Applicant Response

A response to the appeal submission has been prepared by Farry Town Planning Ltd on behalf of the applicants. The response can be summarised as follows;

- Planning history – The applicant has stated that the permission granted by Wicklow County Council under P.A ref. 05/2474 did not include rear facing dormer windows but were omitted following a further information request seeking the applicant to omit the two rear dormer windows and replace with rooflights. The applicant goes on to state that they do not consider that Wicklow County Council prohibited the installation of rear dormer windows and that the omission of these dormer windows were prompted by factors prevailing almost twenty years ago.
- The applicant states that the issue central to this appeal application is the issue of overlooking with the loss of privacy to adjacent property. The

applicant states that due to the linear arrangement and siting of the dwellings that no loss of privacy would arise.

- The appellant has stated that the smaller window opening faces open farmland and does not overlook the appellants property.
- Reference has been made to the second window on the dormer extension to the rear and site specific factors identified as 'cone of vision', perimeter fencing and mature vegetation preventing the applicants from view of the appellants' rear garden.
- Obscure Glazing – The applicant states that they do not consider that obscure glass is necessary as it is impossible to overlook the neighbouring property.

6.3. Planning Authority Response

None

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

I have inspected the appeal site and examined all documentation on the file including the site planning history. I consider that the key planning issues relating to this

assessment are those raised by the third party in their grounds of appeal submission to the board as follows;

- Principle of development
- Shed/Hobby Room Structure
- Wastewater Treatment
- Impact on amenities of adjacent residents

7.1. Principle of Development

The development to be retained comprises a dormer box extension to the rear of the dwelling, plant room extension, alterations to all elevations of the dwelling, garden shed/hobby room and installation of a wastewater treatment system and soil polishing filter. The works carried out to this rural dwelling are considered acceptable in principle subject to relevant planning considerations and compliance with relevant policies and objective of the Wicklow County Development Plan.

Shed/Hobby Room

I have examined the existing single storey (22sq.m) shed/hobby room structure located to the rear of the application site. I am satisfied that the structure is compliant with the policies and objective of the Wicklow County Development Plan 2022 – 2028 and is only for purposes ancillary to the residential use of the dwelling house.

Wastewater Treatment System

- 7.1.1. I have examined the documentation regarding the wastewater treatment system and soil polishing filter installed on the site. I am satisfied based on the documentation received that the wastewater treatment system and soil polishing filter is in accordance with the requirements of EPA Code of Practice, Domestic Waste Water Treatment Systems (population Equivalent ≤ 10), 2021.

7.2. Impact on amenities of adjacent residents

- 7.2.1. The key issue in this case is the existing rear dormer extension. This development is below the ridge line of the dwelling and comprises a box style dormer. The box dormer feature comprises two no. windows and accommodates an increased floor area to serve an existing bedroom.
- 7.2.2. The appellant has made reference to planning permission 05/2474. This permission was granted by Wicklow County Council in 2015 for habitable attic space and upgrade of septic tank. As part of the application the applicant was requested further information to omit two no. dormer windows to the rear and replace with rooflights. Permission was subsequently granted.
- 7.2.3. The appellant contends that the two no. windows in the dormer extension overlook the rear garden of her property located immediately adjacent to the west of the appeal site.
- 7.2.4. I inspected the appeal site and I viewed the dormer extension and associated windows. I also inspected the dormer extension development from the rear garden of the appellants property. The dormer extension is located at a separation distance of 17m from the gable end of the appellants dwelling and 10.7m from the site boundary with the appellants property. I do note the concerns of the appellant however at site inspection it was clear that there is no direct overlooking of the appellants dwelling or rear garden from the appeal site. Window no. 1 located to the east of the dormer extension clearly looks out onto open agricultural lands. Window no. 2 looks directly out towards the rear (south) of the applicants dwelling. It was also noted that there is significant screening along the boundary between the appeal site and the appellants property.
- 7.2.5. I am satisfied that there is no direct overlooking of the appellants property in this instance due to the orientation of the dormer windows and separation distances to the neighbouring dwelling. I have considered the appellants request for the dormer extension windows to be obscure/frosted in nature which is not an unreasonable request in the case of close overlooking, however in this instance I do not consider that a condition of this nature would be of any benefit.
- 7.2.6. Having considered the documentation submitted, the location of the dormer extension windows, separation distance from the appellants dwelling and the existing boundary screening between the appeal site and appellants property, I am satisfied

that the development does not unduly overlook the appellants property and does not impact on the residential amenities of the adjacent residents. I therefore concur with the recommendation of Wicklow County Council to grant retention permission.

8.0 AA Screening

Having regard to the nature and scale of the development, the site location outside any protected site, the nature of the receiving environment, and the proximity of the appeal site in question to the nearest European site, it is my opinion that no appropriate assessment issues arise in this instance.

9.0 Recommendation

I recommend that retention permission be granted.

10.0 Reasons and Considerations

Having regard to the nature, scale and design of the development to be retained, the orientation of the dormer windows and separation distances to the neighbouring dwelling, it is considered that, subject to compliance with the conditions set out below, the existing development would not seriously impact on the residential amenity of the adjacent property. The development is therefore considered to be compliant with the proper planning and sustainable development of the area.

11.0 Conditions

1. 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. Where such conditions require details to be agreed with the planning authority, the developer shall

agree such details in writing with the planning authority, and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interests of clarity

2. The existing dwelling and extensions shall be jointly occupied as a single residential unit and the extensions 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. Within three months of the date of grant of this retention permission, the applicant shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.

Reason: In the interest of public health and to prevent water pollution

4. Within three months from the date of grant of this retention permission the applicant shall submit documentary evidence to the Planning Authority for their written agreement that the decommissioned septic tank on site has been removed in its entirety or backfilled with inert material.

Reason: In the interest of public health and to prevent water pollution

5. (a) All surface water generated within the 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.

(b) The access driveway to the development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent flooding or pollution.

6. The garden shed/hobby room shall be used for domestic purposes ancillary to the dwelling on site and shall not be used for human habitation.

Reason: In the interest of residential amenity and to control the density of residential units.

7. 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, as amended. The contribution shall be paid prior to 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, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

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.

Kathryn Hosey

Planning Inspector

21st October 2024