



An
Bord
Pleanála

Inspector's Report ABP-320286-24

Development	Retention of extension. Change of use from garage to family flat with all associated site works.
Location	Bawntaaffe, Monasterboice, Co. Louth, A92 T1K8
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	2460108
Applicant(s)	Nicola Carroll
Type of Application	Permission and Retention
Planning Authority Decision	Grant with conditions
Type of Appeal	First Party against condition
Appellant(s)	Nicola Carroll
Observer(s)	None
Date of Site Inspection	23 January 2024
Inspector	Natalie de Róiste

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1.0 Site Location and Description

- 1.1. The site is an existing house and garden located on a back road off the R132, close to the M1, in the townland of Baantaaffe, near Monasterboice in Co. Louth. The house is a bungalow, and there is an existing smaller building located to the front of building line, at a right angle to the bungalow. This is referred to in the planning application as a garage, although it does not have any garage doors, or access for a motor vehicle. It was in use on the date of the site visit for storage of bulky household goods. It has been finished to a rudimentary standard internally, plastered and painted, but with a concrete floor, and a single light fitting. Both buildings have hipped tiled roofs, rendered walls, and appear to have been constructed in the late twentieth century, with the house renovated and refenestrated more recently.

2.0 Proposed Development

- 2.1. It is proposed to retain an existing side extension to the bungalow (measuring c. 4 sq.m.), and to change the use of the ancillary building to the front of the house to a family flat, with a new extension to the side of the house to form a linking hallway between the existing house and the family flat.

3.0 Planning Authority Decision

3.1. Decision

Permission and retention permission was granted.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report of 12 April 2024 found the proposal largely satisfactory, but requested Further Information on the rationale for the need for the family flat; and on the septic tank/water treatment capabilities on site.
- The planner's report of 2 July 2024 found the response satisfactory, and recommended a grant with conditions.

3.2.2. Other Technical Reports

- Environment Section, 28 June 2024 – grant recommended, subject to conditions.

3.2.3. Conditions

Eight conditions, including the following:

2i) The dependant relative accommodation (Family Flat) shall be incidental to the principle dwelling on site and shall not be leased, sold or otherwise disposed of, other than as part of the main residential unit on the site.

ii) The proposed dependant relative accommodation shall, when no longer required for the purpose hereby granted, be reverted to domestic garage use incidental to the main dwelling.

Reason: In the interests of orderly development.

3. The extension shall be used as an integral part of the existing house as indicated on plans and drawings submitted to the Planning Authority on 28th February 2024, and shall not give rise to any subdivision of the house for use as an independent residential unit.

Reason: To protect the integrity of the house as a single dwelling unit only and in the interest of preserving the residential amenities of the area.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None on file.

4.0 Planning History

The following are noted in the planner's report:

73637 permission granted for dwelling house with conditions (1973).

89189 permission granted for extension to dwelling house with conditions (1989).

13285 permission for extension and elevational changes to existing house, granted with conditions (2013).

5.0 Policy Context

5.1. Louth County Development Plan 2021-27

Chapter 13 deals with Development Management Guidelines, and within that, Section 13.9 addresses Housing in the Open Countryside.

Section 13.9.21 Family Flat/Independent Living Unit sets out the following requirements:

A family flat or independent living unit is a separate unit of living accommodation on the site of an existing dwelling unit used to accommodate an immediate family member of the main household on the site. The construction of an extension or conversion of part of an existing house or garage/outbuilding to a family flat or independent living unit, shall comply with the following requirements:

- *Rationale – The need for the development must be clearly set out.*
- *Scale – The family flat shall be ancillary to the main dwelling and shall be modest in size and scale with a floor space that shall generally not exceed 50m².*
- *Integration – If attached to the main dwelling an internal link shall be provided.*
- *Ownership – It shall not be sold or let as an independent unit and shall remain in the same ownership as the main dwelling on the site.*
- *Access – It shall not have a separate vehicular access.*
- *Services – If the property is served by an individual onsite 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.*

I note that under Section 13.8 Housing in Urban Areas, Section 13.8.36 Family Flat/Independent Living Unit has identical text, and sets out the same requirements for family flats in urban areas of the county.

5.2. Ministerial Guidelines

- 5.2.1. Guidelines for Planning Authorities: Development Management (2007) DEHLG.

5.3. Natural Heritage Designations

Proposed NHA 001464 Mellifont Abbey Woods 4 kilometres west.

SAC 002299 – River Boyne and River Blackwater 5 kilometres south.

Proposed NHA 001804 King William's Glen – 5 kilometres south.

5.4. EIA Screening

- 5.4.1. The development is not a class for the purposes of EIA. See Form 1 on file.

6.0 The Appeal

6.1. Grounds of Appeal

The first party has appealed condition 2(ii), which mandates that when the dependent relative accommodation is no longer required, it shall be reverted to domestic garage use incidental to the main dwelling. Issues raised are briefly outlined below:

- The proposal in the immediate term is to accommodate an elderly relative in need of care. The development complies with a universal design approach, to futureproof the house and accommodate the full life cycle of family members, in line with government policy in relation to care in the community of dependent persons.
- The costs – in the region of €100,000 to €120,000 – and the embodied energy involved in the development, mean it is not sensible to revert the building to a garage when no longer required by the individual involved.

6.2. Planning Authority Response

A response was received dated 27 August 2024. Points raised are outlined below:

- The garage conversion was granted on the basis of the medical needs of the specific immediate family member as outlined in the application, and not on

the unknown potential future needs of other as yet unspecified family members. Any future applications would be considered on their merits.

- The condition is required to protect the nature of the site and control the future use of the building, and to ensure the proposal doesn't provide a means of potentially circumventing rural housing qualifying criteria by resulting in an additional permanent residential unit on the site.
- The planning authority requests the retention of the condition.

6.3. Further Responses

None received.

7.0 Assessment

7.1.1. This is a first party appeal against a condition of a grant of permission. Section 139 of the Planning and Development Act 2000 (as amended) allows the Board (so long as it is satisfied that the application does not require an assessment as if it had been made to it in the first instance) to give the relevant planning authority direction regarding the attachment, amendment or removal of the condition. I am satisfied that the development (the retention of the small utility extension, the conversion of the garage to a family flat, and the construction of the new linking extension) is otherwise in accordance with the Development Plan and the proper planning and sustainable development of the area, and I am satisfied that the appeal only relates to condition 2ii, and does not raise any further issues. I am satisfied that the appeal may be dealt with under Section 139 of the Act, and I am going to limit my consideration to the appropriateness of the condition in question. I consider the issues to be:

- Potential subdivision of the dwelling
- Practicality of reversion to garage use

7.2. Potential subdivision of the dwelling

7.2.1. I note the response of the Local Authority, and their rationale for the inclusion of the condition, which is to protect the residential and domestic nature of the site and to control the future use of the building, and to ensure that the proposal doesn't result in

an additional permanent residential unit at the site. These are reasonable aims, and a condition regulating the future use of the family flat is appropriate. However, a number of conditions are attached specifically regarding the use of the dwelling and converted building. Condition 2i) precludes any separation by lease, sale, or other mechanism of the family flat (although the stated reason is *In the interests of orderly development*, rather than explicitly to safeguard the future use). Condition 3 has a similar impact, precluding any subdivision of the house for use as an independent residential unit. In my view, these conditions address the issue of subdivision and creation of additional residential units. I note the applicant has not appealed these conditions, and there is nothing on the file to indicate any proposed subdivision or commercial use. Furthermore, the Local Authority has not clarified how an eventual reversion to garage use would preclude the subdivision of the house in the meantime, should condition 2i and condition 3 be insufficient. I do not consider that condition 2ii is appropriate or necessary to prevent the subdivision of the house.

- 7.2.2. The existing house is relatively modest in size, having 2 bedrooms and extending to c. 130 sqm. The proposed conversion and extension would create an additional bedroom, bathroom, and living/dining/kitchenette, and the total would measure some 184 sqm. In the event that the family flat is no longer required by the individual who has an immediate need for it, I see no reason why it could not be re-incorporated into the dwelling house as part of that residential unit, for the benefit of existing and future residents. A house with a family flat can be useful for households with young adult children, or for multi-generational households, regardless of the medical needs or care needs of any individual.

7.3. Practicality of reversion to garage use

- 7.3.1. The appellant states that the development was designed as an 'access and use for all' extension, to future-proof the family home to accommodate the full life cycle of family members. I note the Local Authority response that the permission was granted for the needs of a specific individual, and not for the unknown potential future needs of other family members. These appear to be diametrically opposed approaches. In my view, given the costs and resources naturally involved with construction, the appellant's long-term approach is a sustainable and sensible one. I do not consider it reasonable to require a reversion to non-habitable use, once it has been insulated, subdivided, wired, plumbed, floored, fitted out, and decorated as residential

accommodation. This condition would effectively grant a temporary permission, and the Ministerial Guidelines on Development Management are instructive on this issue.

Section 7.5 Temporary Permissions

In deciding whether a temporary permission, which can apply to a particular structure or use, is appropriate, three main factors should be taken into account. First, the grant of a temporary permission will rarely be justified where an applicant wishes to carry out development of a permanent nature that conforms with the provisions of the development plan. Secondly, it is undesirable to impose a condition involving the removal or demolition of a structure that is clearly intended to be permanent. Lastly, it must be remembered that the material considerations to which regard must be had in dealing with applications are not limited or made different by a decision to make the permission a temporary one. Thus, the reason for a temporary permission can never be that a time limit is necessary because of the adverse effect of the development on the amenities of the area. If the amenities will certainly be affected by the development they can only be safeguarded by ensuring that it does not take place.

7.3.2. The proposed development complies with the provisions of the Development Plan, and is clearly intended to be a permanent structure, given the level of expenditure required. As such, condition 2ii is neither justified nor desirable.

7.3.3. I recommend that condition 2 be removed and replaced in its entirety as follows:

2.i) The proposed dependant relative accommodation (family flat) shall be incidental to the principal dwelling on site and shall not be leased, licensed, sold, or otherwise disposed of, other than as part of the main residential unit on the site.

ii) In the event that the proposed family flat accommodation is no longer required for the accommodation of a dependent relative, it shall be reintegrated into the existing house as living accommodation.

Reason: to clarify the extent of the permission, and ensure the continued domestic residential use on site.

This amended condition safeguards the future use of the property, also corrects a misspelling, and provides a more specific reason, in line with the recent OPR Practice Note *PN03 Planning Conditions*.

8.0 AA Screening

- 8.1.1. Having regard to the nature and small scale of the proposed development and the distance from 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, individually, or in combination with other plans or projects, on any European site.

9.0 Recommendation

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to AMEND condition number 2 as follows:

2.i) The proposed dependant relative accommodation (family flat) shall be incidental to the principal dwelling on site and shall not be leased, licensed, sold, or otherwise disposed of, other than as part of the main residential unit on the site.

ii) The proposed family flat accommodation, if and when it is no longer required for the accommodation of a dependent relative, shall be used as part of the existing house as living accommodation.

Reason: to clarify the extent of the permission, and ensure the continued domestic residential use on site.

10.0 Reasons and Considerations

- 10.1.1. The proposed reworded condition fulfils the aim of safeguarding the domestic and residential use of the property, while complying with the Ministerial Guidelines on Development Management on the issue of temporary permissions.

Natalie de Róiste
Planning Inspector

28 January 2025

Form 1

EIA Pre-Screening

ABP Case Reference	ABP-320286-24		
Proposed Devt Summary	Retention of extension. Change of use from garage to family flat with all associated site works.		
Development Address	Bawntaaffe, Monasterboice, Co. Louth, A92 T1K8		
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	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	<input type="checkbox"/>	State the Class here.	Proceed to Q3.
No	<input checked="" type="checkbox"/>		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	<input type="checkbox"/>	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	<input type="checkbox"/>		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	<input type="checkbox"/>	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	<input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1-Q4)	
Yes	<input type="checkbox"/>	Screening Determination required	

Inspector: _____ Date: _____