



An
Bord
Pleanála

Inspector's Report ABP320739-24

Development	Retention of existing attic floor at existing two storied end of terrace house for use as non-habitable office/study and a shower room and all associated works. .
Location	1 The Green, Elsmore, Naas, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	24201 .
Applicant	Jami Joseph.
Type of Application	Permission.
Planning Authority Decision	Grant of retention of permission with conditions.
Type of Appeal	First Party
Appellant	Jami Joseph

Observer

None

Date of Site Inspection

20th January 2025.

Inspector

Derek Daly

1.0 Site Location and Description

- 1.1. The development is located in an established residential area to the southwest of the central area of the town of Naas. On the site is an end of terrace two storied dwelling one of three dwellings in the terrace. The dwelling has gardens to the front and rear and a side entrance. The estate road defines the northeastern boundary and the remaining boundaries define site boundaries with other residential properties. The site has a stated area of 0.0263 hectares.

2.0 Proposed Development

- 2.1. The proposed development is for the retention of the existing attic floor area of an existing two storied end of terrace house for use as non-habitable office/study and a shower room and all associated works. The converted attic space is a stated 4795mm by 4740mm and there is a stairwell to the area from the first floor landing. A shower room is indicated in the corner of the attic area.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The decision of the Planning Authority was to grant planning permission subject to three conditions. Conditions of note include;
- Condition 2(a) which required the dwelling to be retained as a single unit and limited use to domestic related use.
 - Condition 2(b) indicated that the attic conversion shall not be used for human habitation, or as a bedroom, kitchen, bathroom use. No shower, kitchen, cooking facilities or washing machine shall be provided within the structure.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The planning report dated the 1st August 2024 refers to submissions received from other internal departments indicating no objections, to provisions of the Kildare County Development Plan, and that the principle of the development is considered appropriate and will not give rise to impacts on adjoining residential properties. permission was recommended subject to conditions.

4.0 Planning History

No relevant Planning History to the site.

Referred to in grounds of appeal P.A. Ref. No. 2460433

Retention of existing attic floor of existing end of terrace two storey house for use as home office, home gym and shower room and all associated site works at 47 The Green, Elsmore, Naas, Co. Kildare.

Conditions of note

3. The existing dwelling and converted attic shall be jointly occupied as a single housing unit. The converted attic shall not be subdivided from the remainder of the dwelling nor let as a separate dwelling unit. The overall dwelling shall be used for domestic-related purposes only, and not for any commercial, workshop, or other non-domestic use.

Reason: In the interests of clarity and to regulate the use of the development in the interest of the proper planning and sustainable development of the area.

4. The converted attic space shall not be used as habitable accommodation without a prior grant of permission.

Reason: In the interest of clarity and fire safety.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The statutory development plan is the Kildare County Development Plan 2023-2029 and in particular chapter 15 which outlines development management standards.

- 5.1.2. Section 15.4.12 outlines the principles in relation to extensions to dwellings setting out principles which include that the extension should be sensitive to the appearance and character of the house and the local area; the extension shall have regard to the form and scale of the existing dwelling and should not adversely distort the scale or mass of the structure and the design and scale should have regard to adjoining properties.

5.2. Natural Heritage Designations

None relevant

5.3. EIA Screening

- 5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The first party appeal relates to condition no. 2(ii) of the decision to grant planning permission. In summary the grounds refer to;
- There is no reasonable justification for this condition which would require the appellant to remove the shower, sink and toilet.
 - The parent permission indicated that attic area for storage and it was always clear that it was always intended for development with building regulation roof height, velux rooflights etc.
 - The installation of the shower, toilet and sink would be considered exempted development under Article 4(1)(h) of the Planning and Development Act 2000 as amended.
 - Reference is made to precedence for permitting similar development and in this regard P.A. Ref. Nos 2460433 and 201422 are indicated.

- Reference is made to numerous examples of unauthorised attic conversions in the area used as living areas.

6.2. Planning Authority Response

The planning authority in a response note the appeal submission, and indicates that condition 2(ii) was applied in error and was not appropriate. It is indicated *that a shower, toilet and sink in the attic of a habitable dwelling consisting of floor to ceiling height of 2.4 metres do not consist a separate habitable space according to the objectives and policies set in chapter 15 of the Kildare County Development Plan 2023-2029.*

6.3. Appellant Response to Planning Authority Response

The appellant in a response to the Planning Authority response indicates it is clear an administrative error was made and requests the board that the condition be amended to reflect a more appropriate condition in relation to the nature of the development on the site.

7.0 Assessment

- 7.1. The main issues in this appeal are principle of the development and the grounds of appeal which in effect is an appeal against condition no. 2 (b) of the planning authority decision. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- The principle of the development.
- Condition no 2(b) of the planning authority decision.

7.2. The principle of the development.

- 7.2.1. The site is located within an existing dwelling in an established residential area. The provisions of the current County Kildare Development Plan provide for extensions to dwellings subject to the principles as set out in section 15.4.12 and the development as proposed complies with the principles as set out.

7.3. Condition no 2(b)

- 7.3.1. Condition 2 (b) indicated that the attic conversion shall not be used for human habitation, or as a bedroom, kitchen, bathroom use. No shower, kitchen, cooking facilities or washing machine shall be provided within the structure.
- 7.3.2. In the grounds of appeal, the appellant contends there is no reasonable justification for this condition which would require the appellant to remove the shower, sink and toilet; the parent permission indicated that attic area for storage and it was always clear that it was always intended for development with building regulation roof height, velux rooflights etc. and reference is made to precedence for permitting similar development.
- 7.3.3. It is noted that the planning authority in a response indicates that condition 2(ii) was applied in error and was not appropriate and it is indicated that a shower, toilet and sink in the attic of a habitable dwelling consisting of floor to ceiling height of 2.4 metres do not consist a separate habitable space according to the objectives and policies set in chapter 15 of the Kildare County Development Plan 2023-2029. The appellant in a response to the Planning Authority response indicates it is clear an administrative error was made and requests the board that the condition be amended to reflect a more appropriate condition in relation to the nature of the development on the site. It is noted that the response should refer to condition 2(b).
- 7.3.4. In the light of the planning authority response and that the development complies with the provisions of the county development plan and that the inclusion of a shower in the attic area is precluded, the requirement of precluding a shower would not be reasonable. The other conditions of the planning authority decision appropriately regulate the proposed development and the removal of condition 2(b) is therefore appropriate.
- 7.3.5. I would therefore consider that condition no 2(b) should be omitted in a grant of planning permission.

8.0 Appropriate Assessment Screening

- 8.1. I have considered the proposal for an attic area extension to an existing dwelling in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in an established residential area and the subject site is not located within nor within close proximity to a designated European

site. The proposed development comprises the conversion of an attic area of a dwelling as outlined in section 2 in the Inspectors report. 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 and the absence of a pathway to the European site

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

9.0 Recommendation

- 9.1. For the reasons already stated I consider that the appeal can be addressed under section 139 of the Planning and Development Act 2000 as amended and I recommend permission be granted subject to the omission of condition 2 (b) of the Planning Authority's decision to grant planning permission.

10.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the matters raised in the grounds of appeal and the provisions of the Kildare County Development Plan 2023-2029 it is considered subject to the deletion of condition 2(b) of the Planning Authority's decision the proposed development accords with the proper planning and sustainable development of the area and would not adversely impact or detract from the visual and residential amenities of the area.

11.0 Conditions

Condition 2(b) of the Planning Authority decision shall be omitted;

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.

Derek Daly
Planning Inspector

22nd January 2025

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	320739-24		
Proposed Development Summary	Retention of existing attic floor at existing two storied end of terrace house for use as non-habitable office/study and a shower room and all associated works.		
Development Address	1 The Green, Elsmore, Naas, County Kildare.		
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	Tick if relevant and proceed to Q2.
		No x	Tick if relevant. 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)?			
Yes	Tick/or leave blank	State the Class here.	Proceed to Q3.
No	X		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	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	Tick/or leave blank		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	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	Tick/or leave blank	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: Derek Daly Date: 22nd January 2025