



An
Bord
Pleanála

Inspector's Report

ABP 321162-24

Development	Retention for existing ground floor and first floor extensions to the rear of existing dwelling house and associated works.
Location	Main Street, Castlebellingham, Co. Louth, A91 HTW8
Planning Authority	Louth Co. Council
Planning Authority Reg. Ref.	2460480
Applicant(s)	Andrew Carroll
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Andrew Carroll
Observer(s)	None
Date of Site Inspection	8 th January 2025
Inspector	Rosemarie McLaughlin

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History	5
5.0 Policy Context	5
5.1. Development Plan	5
5.2. Natural Heritage Designations	6
5.4. EIA Screening	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Planning Authority Response	7
6.3. Observations	7
6.4. Further Responses	7
7.0 Assessment	7
8.0 AA Screening	10
9.0 Recommendation	10
10.0 Reasons and Considerations	10
11.0 Conditions	11

Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The appeal site consists of a two storey, semi-detached building on Main Street, Castlebellingham, Co. Louth. The ground floor is partially a takeaway commercial use, and the remainder of the building is an occupied separate residential dwelling which extends across the entire first floor. There is no connection between the commercial and residential use. A long standing single storey and first floor residential extension exists to the rear of the building. A rear garden steps up to the northeast from the dwelling to the rear of the site. To the north and attached to the appeal site is a post office. To the southeast of the site and set back from the appeal site is a protected structure RPS No. Lhs015-019 138260, 13 Main Street / Brewery Street, (a former Corn Mill Grain Store) which has been redeveloped as mixed uses.

2.0 Proposed Development

- 2.1. This is an application to retain pre-1990 extensions to the rear of the property fronting Main Street, Castlebellingham. The upper floor element consists of a flat roofed c 17.6 sqm bathroom extension with an internal floor to ceiling height of 2.3m and an overall height of 3.140m. The gross floor space of the property is 181 sqm and the area of the extensions to be retained is 80 sqm. The ground floor L shaped extension consists of a number of elements, including a section attached to the rear of the original house (study) with a 2.89m floor to ceiling height, a central space (sitting room) 2.295m floor to ceiling height, and the rear section (lounge/kitchen) with a 2.250m internal floor to ceiling height. The floor steps up in the extension from the sitting room to the rear of the house.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission was refused for one reason.

1) Having regard to the substandard floor to ceiling heights throughout the extensions seeking retention, this accommodation if permitted would result in the regularisation of substandard living conditions which militates against proper

planning principles for creating attractive living spaces and, therefore, provides inadequate living accommodation for the current and future occupants of the dwelling. Regardless of when the extensions were constructed, the planning authority is precluded from permitting substandard accommodation. As such, it would result in the setting of an undesirable precedent for further inappropriate development in the vicinity of the site and thus would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planning Authority (PA) report includes certain County Development Plan (CDP) policies and states that an extension is acceptable in principle. The planning history is referred to where the same application was previously refused. The PA note the submitted details that the extension preceded the current development plans but considers good design is within the remit of the PA and is a key planning consideration in every decision. The PA consider the date when the extensions were constructed as irrelevant, and the PA is precluded from granting permission for substandard accommodation which detrimentally impacts upon the general amenity of the dwelling and its occupants and sets an undesirable precedent for similar development.
- Permission was refused for the reason outlined above.

3.2.2. Other Technical Reports

- None

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

- None

4.0 Planning History

4.1. Subject site

4.1.1. 23/60468 Permission refused for one reason:

1) The accommodation provided by the rear extension for which retention permission is sought provides additional living accommodation and bathroom facilities for this dwelling. By reason of its substandard ceiling heights throughout, this accommodation fails to meet the minimum standard as per Building Regulations (2019) Technical Guidance Document F to provide a floor to ceiling height of 2.4m (minimum) across 50% (minimum) of the floor area. As such to permit such a development would result in a substandard level of accommodation for occupants, set an undesirable precedent for other similar inappropriate development in the vicinity and thus would be contrary to the proper planning and sustainable development of the area.

4.2. Vicinity

4.2.1. ABP 305095-19 / PA ref. 181600: Construction of 51 dwellings was granted on 18/2/2020.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Louth County Development Plan 2021 – 2027 applies (CDP). Castlebellingham is designated as a self-sustaining town in the core strategy and as an Architectural Conservation Area. The site is in zoning 'B1 Town or Village Centre' in volume 2 of the CDP, '*To support the development, improvement and expansion of town or village centre activities*'. Adjacent to the south is a mixed use protected structure on a corner site, RPS No. Lhs015-019 (NIAH ref No. 13826013), a former Corn Mill Grain Store.

5.1.2. The relevant sections of Volume 1 and 2 are summarised below.

- CAS 1 To consolidate and strengthen the commercial and residential town centre of Castlebellingham/Kilsaran and encourage development, which will

contribute to its character, preserve and enhance the quality of its attractive built and natural environment, while catering for the needs of all sections of the local community.

- HOU 34 To encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and are climate resilient.
- Chapter 13 sets out Development Management Standards.
- 13.9.20 – residential extensions

5.2. Natural Heritage Designations

5.3. The closest sites are Dundalk Bay SPA and SAC, c. 1.3km to the east. Stabannan-Braganstown SPA is c. 3.2km southwest. Details are set out in section 8, AA screening.

5.4. EIA Screening

5.4.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

- The extensions were built c 40 years ago and some of the later extensions were built in 1981/1982. The extension works predate the introduction of the Building Control Act, Building Regulations and technical guidance documents. There was no legal requirement for the subject works to meet the technical guidance documents, as they did not exist. The house is not large in size and the ceiling heights work. The original building has a ceiling height at first floor below 2.4 metres.

- The local authority has acted outside their remit. The proposal has been refused for noncompliance with the technical guidance document which does not apply.
- It is strongly disputed that the works are substandard.

6.2. **Planning Authority Response**

- Not received by due date (2/12/2024).

6.3. **Observations**

- None.

6.4. **Further Responses**

None.

7.0 **Assessment**

7.1. Having examined the application and appeal documentation and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authorities' reason for refusal, and I am satisfied that no other substantive issues arise. The main issues, therefore, are as follows:

- Principle of Development
- Reason for refusal - Residential Amenity
- Other Issues
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The dwelling is located on land zoned for town or village uses, where residential development is acceptable. The rear single and two storey extensions, which are subject of retention, are stated to have been built over 35 years ago and this was accepted by the PA and is not in dispute. Given that the site is situated on lands

zoned for mixed uses where residential use is acceptable and given the period in which a habitable dwelling has been established at this location, I am satisfied with the principle of development. There is no record of enforcement in the PA report. As the extensions occurred pre-1990, it may be noted that under Section 157(4) of the Planning and Development Act 2000 as amended, local authorities may not serve enforcement notices after seven years since the commencement of the development.

7.3. Reason for refusal - Residential Amenity

- 7.3.1. Contrary to the grounds of appeal, the PA did not refuse this permission because the development breached any technical guidance documents but refused permission on the ground that the development represents “substandard living conditions” mitigating against attractive living spaces and, therefore, provides inadequate living accommodation for the current and future occupants of the dwelling. The PA previously refused permission (PA Ref. 23/60468) because the development failed to meet the minimum standard of Building Regulations 2019 Technical Guidance Document F, on Ventilation. Diagram 3, page 14 of that Technical Guidance Document sets out a standard of 1.4m height.
- 7.3.2. The PA consider in this decision that regardless of when the extensions were built, they are precluded from permitting substandard accommodation. The appellant strongly objects that the accommodation is substandard.
- 7.3.3. Should a new extension have been sought on the existing footprint today, the development would be designed in accordance with the requirements of the relevant codes of legislation (Building Control Regulations, Fire Safety Certificates, etc). The Office of the Planning Regulator in Practice Note PN03 states the “Planning and Development Act 2000, as amended, does not imply consent under the Building Control Regulations. The onus is on the designer and assigned certifier to ensure full compliance with the Building Control Regulations (in certain circumstances design changes may require planning permission).”
- 7.3.4. The issue in this appeal falls to be assessed against the reason for refusal that the extensions represent substandard living conditions. The first floor bathroom area (toilet and shower) is c.17 sqm with a floor to ceiling height of 2.3m and has two windows. It is also a second bathroom in the property, serving upstairs. This space

is a fraction lower than the first floor of the original house which is 2.35m. Given the minimum disparity in height with current standards, the size and available ventilation of the bathroom/toilet, I do not consider that the first floor extension is significantly substandard and that it provides adequate living conditions to the occupants.

- 7.3.5. The study at the ground floor at 2.89m high is acceptable and is slightly stepped below the adjacent sitting room/dining(lounge on plan)/kitchen areas. The sitting room and study operate as one space in the home with a large roof light over the sitting room. Having inspected the site and walked through the rear extension which was in use as a residential accommodation with a family eating, cooking and doing homework, I cannot say that the extension area presented as substandard living accommodation. The large rear window at the lounge area which was in use as a dining area allows light and ventilation into the active space and the large skylights in the kitchen and sitting room also bring light into the spaces.
- 7.3.6. The rear extensions are attached to a small older building on Main Street with no rear access. Parts of the extension that have been in place prior to the 1990s are between 10.5 cm and 15 cm below the current new building standard (1.4m) and part of the extension is higher than the current standards.
- 7.3.7. This is not a recent extension that has been built without planning permission and non-compliant with the current applicable technical guidance. Each case must be assessed on the specific circumstances. I consider the circumstances include the level of discrepancy with today's standards, what is in situ, how it operates, and the duration of time since the development occurred. As the extension and the existing building heights have been in situ and established for many years and given the limited disparity between the existing building heights and the 'suggested minimum building heights' under Diagram 3, page 14 of the Technical Guidance Document F Ventilation, I consider that it would be acceptable to permit retention as proposed.
- 7.3.8. In conclusion, I consider the proposed retention as acceptable, and I do not consider that the development would set a precedent as the site and the issues arising within this appeal have a site-specific context.

7.4. **Other Issues**

- 7.5. As this application is considered de novo by the Board, it may be pointed out that there is a substantial rear open space available to the residential occupants. The

building is on the lowest part of the site which slopes upwards to the northeast. The rear of the site is not visible within the ACA and has no visible impact on the adjacent detached protected structure.

8.0 AA Screening

- 8.1. I have considered the proposed residential extension in light of the requirements S177U of the Planning and Development Act 2000 as amended. The nearest designated site is c. 1.3km to the southeast, Dundalk Bay SAC (Site Code: 000455) and Dundalk Bay SPA (Site Code: 004026) and Stabannan-Braganstown SPA [Site Code: 04091] c 3.2 km southwest.
- 8.2. The proposed development comprises retention of extensions to an existing house in an urban area.
- 8.3. No nature conservation concerns were raised in the planning appeal.
- 8.4. 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:
- Small scale and nature of the development.
 - Distance from the nearest European site and lack of connections.
- 8.5. 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.
- 8.6. 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. I recommend that retention permission be granted.

10.0 Reasons and Considerations

- 10.1. Having regard to the scale, form and design of the proposed development, the length of time the development has been in place, it is considered that, subject to

compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of the property. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be carried out in accordance with the plans and particulars submitted with the planning application except as may be otherwise required by the following conditions. Reason: To clarify the plans and particulars for which permission is granted.
----	--

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.

Rosemarie McLaughlin
Planning Inspector

28th January 2025

Appendix 1 - Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	ABP 321162-24		
Proposed Development Summary	Retention of extensions.		
Development Address	Main Street, Castlebellingham, Co. Louth, A91 HTW8		
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.	
	x		
	No		
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		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			EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		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	x	Screening determination remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: _____ Date: _____