



An
Bord
Pleanála

Inspector's Report ABP-321651-25

Development	Retention of a three-storey external fire escape stairs to the rear of guest house and all associated site works.
Location	Cabra, Kingscourt, Co. Cavan.
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	2460368
Applicant(s)	King Mc Homes Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party v Grant
Appellant(s)	Marie Wilson
Observer(s)	None
Date of Site Inspection	26 th March 2025
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1. The site is located in the townland of Cabra, Kingscourt, Co. Cavan, in the rural countryside outside of any zoned town or village. It fronts onto R179 Carrickmacross road. The site relates to two-storey detached dormer guesthouse. The existing dwelling has a stated floor area of 556.00 sqm. The stated site area is 0.4 hectares.

2.0 Proposed Development

- 2.1. Retention permission is sought for as constructed three-storey external galvanised finished fire escape stairs to the rear of the existing guest house and all other associated site works. The overall height of the structure is stated at 6.9 metres.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission on the 19th of December 2024 subject to one condition, plans and particulars.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planner's Report forms the basis for the decision to grant permission. stating:
 - The planner initially expressed concerns about the visual integration of the fire escape stairs within its setting, describing the design and scale as incongruous. The planner requested the applicant to justify the need for the development, provide details of alternatives that may offer a less intrusive solution, and explain alternatives considered at the time of construction.

- Following the submission of further information, the planner acknowledged that the external fire escape stairs were necessary for compliance with the Regularisation Fire Safety Certificate. The planner concluded that the fire escape was essential for health and safety and recommended approval of the application.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One number third-party submission was made from a neighbouring property to the north making the following points:

1. The site notice makes no reference to retention.
2. The applicant did not advertise on site, the site notice was inaccurate, and the council failed to make the application invalid.
3. The application documents submitted are stamped inaccurately.

4.0 Planning History

- 4.1. **PA REF: 18316:** Permission granted in 2018 to retain change of use of dwelling house to function as part commercial guesthouse (8 bedrooms and 3 reception rooms) and part private residence (2 bedrooms and 1 reception room).

5.0 Policy Context

5.1. Development Plan

Cavan County Development Plan 2022 – 2028

Objective EXD 01 – Extensions to Dwellings

- Ensure that extensions to residential dwellings accord with the following:
- Be subordinate in terms of scale.
- Complement the local area and not have a negative impact on the visual or residential amenities of neighbouring dwellers of the area in general
- Flat roof extensions and contemporary design extensions will be considered on their individual merits.
- The extension shall not provide for overlooking of the private area of an adjacent residence where no such overlooking previously existed
- New extensions shall not overshadow adjacent dwellings to the degree that there is significant decrease in daylight or sunlight entering the house
- Proposed side extensions shall retain side access to the rear of the property, where required for utility access, refuse collection or similar.
- Ability to provide adequate car parking within the curtilage of the dwelling. In all cases where diversion or construction over existing sewerage and/or water mains is required, the consent of Irish Water will be required as part of the application.

5.2. Natural Heritage Designations

The subject site is not located within any Natura 2000 sites.

The nearest Proposed Natural Heritage Areas are

- pNHA – Ballyhoe Lough, c 4.7 km to the southeast.

6.0 Environmental Impact Assessment Screening

- 6.1. Having regard to the nature and scale of the development, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required. See Appendix 1.

7.0 The Appeal

7.1. Grounds of Appeal

A third-party appeal has been lodged by Marie Wilson against the Planning Authority's decision to grant retention permission. The grounds of appeal can be broadly summarised as follows:

- **Planning History and Change of Use:** The appellant argues that the premises is no longer a guesthouse but has become a commercial development (a refugee or emergency accommodation centre). This constitutes a material change of use, which was not properly reflected in the site and newspaper notices, making the application invalid.
- **Fire Safety Concerns:** The external metal fire escape stairs are deemed unnecessary and inappropriate. The appellant claims that a safer means of escape could have been incorporated within the building's external envelope, such as self-closing fire doors. The current stairs design is described as incongruous, extremely ugly, and not compliant with Technical Guidance Documents - Part B Fire.
- **Procedural Flaws:** The appellant contends that the planning authority's decision was procedurally improper and ultra vires. The authority sought further information (F.I.) but did not receive the required alternatives yet proceeded to make a decision. This is considered a fatal flaw in the process.

- **Invalid Notices:** The appellant claims that the site and newspaper notices are misleading as they describe the premises as a guesthouse, which is no longer accurate. This invalidates the application and decision.
- **Options for An Bord Pleanála:** The appellant suggests several options for An Bord Pleanála, including dismissing the appeal due to invalid application/decision, requiring re-advertisement of public notices, refusing permission, or granting permission with conditions to enclose the staircase.
- **Regulatory and Legal Concerns:** The appellant raises concerns about the fees incurred for the appeal and suggests that the matter may end up before the Regulator or the High Court due to the planning authority's alleged failures.

7.2. Planning Authority Response

Response received dated 11th February 2025 requesting the Board to uphold the decision of the Planning Authority.

7.3. Observations

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, and inspected the site, and having regard to relevant local policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Design and Visual Amenity
- Residential Amenity
- Other Matters

The board should note my assessment will focus on the development to be retained as detailed in the notices being the retention of a three-storey external fire escape stairs to the rear of guest house.

8.1. Principle of Development

8.1.1. The appeal site is located in a rural area of County Cavan relating to retention of alterations to an existing dwelling used as a guesthouse. Alterations to existing buildings are permitted under the Development Plan and as such in my view the development to be retained is acceptable in principle subject to compliance with the relevant provisions of the plan.

8.1.2. The grounds of appeal refer to the premises is no longer a guesthouse but has become a commercial development (a refugee or emergency accommodation centre). Whilst I note the concerns of the third party, I have regard to the development description before me that being the retention of an external fire escape staircase to the rear of the existing permitted guesthouse. The elevation and floor plans submitted clearly annotate the structure as a fire escape ancillary to the guesthouse on site. I note the PA did not raise the use of a building as a concern. Furthermore, I note there is no active planning enforcement relating to the use of the site. Matters of any unauthorised activity in my opinion is not matter for the Board but for the PA to adjudicate.

8.2. Design and Visual Amenity

8.2.1. In term of design and visual amenity I have had regard to the relevant provisions of the Cavan Development Plan 2022–2028, in particular objective EXD01 which supports extensions of appropriate scale, subject to the protection of visual amenities.

8.2.2. The subject site relates to two-storey detached dormer guesthouse with attic accommodation. The development for retention relates to a three-storey external staircase with a height of 6.9 metres. I note the Planning Authority did express concerns with regard to the design and visual amenity of the structure to be retained. I have had regard to the rationale for the fire scape which is based on health and safety

requirements which is covered under the building regulations which in my view is acceptable. Furthermore, I have inspected the site and the stairs case is located to the rear of the guesthouse which is not visible from the adjoining public road and is screened by existing on site mature vegetation. Given this I consider that the design of development to be retained is generally acceptable and does not impact on the visual amenity of the surrounding area in accordance with objective EXD01 (Extensions to Dwellings) of the plan.

- 8.2.3. Having regard to the foregoing, I consider the development to be retained is in accordance with objective EXD01 Cavan Development Plan 2022 – 2028 which supports alterations of appropriate scale, subject to the protection of visual amenities. Therefore, it is recommended that retention permission be granted.

8.3. Residential Amenity

- 8.3.1. In term of residential amenity, I have had regard to the relevant provisions of the Cavan Development Plan 2022–2028, in particular objective EXD01 which supports alterations subject to the protection of residential amenities. I note the Planning Authority did not express any concerns with regard to the impact on residential amenity from the structure to be retained.
- 8.3.2. I have inspected the site it is my opinion the rear staircase seeking retention is a modest addition to the existing guesthouse and is screened from view by mature trees and hedgerow boundaries, which in my opinion is acceptable and minimises any potential impact on residential amenity. Furthermore, the staircase is set from the neighbouring boundary to the north by 20 metres and 25 metres from the neighbouring boundary to the south. This arrangement in my opinion is not considered to give rise to any undue overlooking or loss of privacy, given the separation distances. As such, I consider this relationship does not introduce any level of unacceptable overlooking.
- 8.3.3. Having regard to the foregoing, I consider the development to be retained is in accordance with objective EXD01 Cavan Development Plan 2022 – 2028 which

supports alterations, subject to the protection of residential amenities. Therefore, it is recommended that retention permission be granted.

8.4. Other Matters

- 8.4.1. The grounds of appeal claim that a safer means of escape could have been incorporated within the building's external envelope, such as self-closing fire doors. That the current stairs design is not compliant with Technical Guidance Documents - Part B Fire. The issue of compliance with building regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.
- 8.4.2. In terms of procedural matters and the alleged irregularities in terms of development description of the newspaper and site notices and the further information received, I note that both matters were considered acceptable by the planning authority. I am satisfied the development description adequately detailed the development in the public notices being retention of an external fire escape staircase and did not prevent the concerned party from making representations in this case.

9.0 Appropriate Assessment Screening

- 9.1. I have considered the development in light of the requirements of S177U the Planning and Development Act 2000 as amended.
- 9.2. The proposed development is located within a rural area and comprises a fire escape staircase to an existing guesthouse. The site is not located within or adjacent to any designated Natura 2000 site.
- 9.3. Having considered the nature and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The small scale and nature of the development
 - The distance from European Sites.

9.4. I conclude, 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.

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

10.0 Recommendation

10.1. I recommend that retention permission should be GRANTED for the reasons and considerations as set out below.

11.0 Reasons and Considerations

11.1. Having regard to the nature, scale, location and design of the development to be retained, it is considered that, subject to compliance with the conditions set out below, the development to be retained would comply with the Cavan County Development Plan 2022 – 2028, in particular objective EXD 01 of the plan and would not seriously injure the visual or residential amenity of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 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 in accordance with the agreed particulars.

Reason: **In the interest of clarity.**

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.

Gerard Kellett
Planning Inspector
29th April 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321651-25		
Proposed Development Summary	Retention of a three-storey external fire escape stairs to the rear of guest house and all associated site works.		
Development Address	Cabra, Kingscourt, Co. Cavan.		
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	
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			
No	√	Alteration/extension to the existing dwelling is not specified as a Class of Development as per the regulations.	No further action required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	√	Pre-Screening determination conclusion remains as above (Q1 to Q4)	
Yes			

Inspector: _____

Date: _____