

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL11.246243

Development: Permission for the change of use of the first floor of the existing outbuilding (domestic store, gym / games room) to a granny flat. Full planning permission sought to part extend same building and associated site works at Tomaclavin, Stradbally, Co Laois.

Planning Application

Planning Authority: Laois County Council
Planning Authority Reg. Ref.: 15/534
Applicant: Joe and Marie Lacey
Planning Authority Decision: Grant permission subject to conditions

Planning Appeal

Appellant(s): Séamus & Catherine Stapleton
Type of Appeal: Third Part v Grant
Observers: None
Date of Site Inspection: 31st May 2016

Inspector: Bríd Maxwell

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site which has a stated area of .31 hectares comprises a well established residential site adjoining an associated farmyard and landholding located within the rural townland of Tomaclavin approximately 6km to the southeast of Stradbally and 12.5km to the southeast of Portlaoise, Co Laois. The appeal site is occupied by a single storey dwellinghouse and a former barn now converted to domestic use which is located towards the south-eastern corner of the site to the rear of the dwelling. Appeal site boundaries are defined by hedging and trees. A laneway runs along the eastern boundary of the site and this lane serves as access to the applicant's farmyard and landholding as well as the adjacent dwelling farmyard and holding of the third party appellant.
- 1.2 The outbuilding which is subject of the appeal has a floor area 110sq.m over two floors. Access to first floor level is from the dwelling site whilst access at lower / ground floor level is also provided from the laneway to the east. Steps along the western side of the structure provide access from the dwelling to the farmyard.

Maps and photos of site are included in appendices to this report.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development involves change of use of the first floor of the existing outbuilding (domestic store, gym / games room) to a granny flat. Permission is sought to part extend same building by 8.4m² at first floor level and associated site works.

3.0 PLANNING HISTORY

- 00.LV.3105 Refusal of application for leave to appeal against decision of Planning Authority for retention of the conversion of an existing outbuilding (barn/ domestic store) to gym / games room, office, external alterations and associated site works.
- 11/89 Permission to retain work as carried out consisting of the conversion of an existing outbuilding (barn/domestic store) to gym/games room, office, external alterations and associated site works. Condition 4 required that the existing dwelling and conversion of outbuilding be jointly occupied as a single housing unit and shall not be sold let or otherwise transferred or conveyed save as part of the dwelling. Outbuilding to be used for purposes incidental to the enjoyment of the dwelling house, Outbuilding shall not be used for living accommodation whether or not this accommodation is considered associated with the adjoining dwelling house.
- UD10/66 Enforcement file in respect of unauthorised development.
- 10/492 Refusal of permission to convert outbuilding to living accommodation on grounds of non-compliance with rural housing policy and public health pollution concerns arising from effluent treatment.
- 04/40 Permission granted for extension to dwelling.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

4.1.1 Submission from objectors Séamus and Catherine Stapleton object to the development on grounds of overlooking, impact on working farmyard, non compliance with use restrictions of previous planning permission. Objectors assert that the development is contrary to the rural housing guidelines and contrary to the proper planning and sustainable development of the area.

4.2 Planning Authority Decision

4.2.1 Laois County Council issued a notification of grant of permission subject to 8 conditions which included the following of particular note.

- Condition 6. The existing dwelling and proposed granny flat shall be jointly occupied as a single housing unit and shall not be sold let or otherwise transferred or conveyed save as part of the dwelling.
- Condition 8. The granny flat living unit hereby permitted shall be occupied by the applicants Joe and Marie Lacey, or members of their immediate family only.

5.0 GROUNDS OF APPEAL

5.1 The appeal is submitted by Séamus and Catherine Stapleton owners of dwelling and farm yard on the opposite side of the lane adjacent to the east of the appeal site. Grounds of appeal are summarised as follows:

- Note history of unauthorised development and previous refusal by Laois County Council. 10/492. It is asserted that the applicants have taken a deliberate step by step approach to circumvent planning regulations and planning policy.
- Conditions 5, 6 and 8 are impractical to police or enforce.
- Site layout drawings submitted with the application are misleading in that the adjacent farmyard buildings were omitted.
- Overlooking of Stapleton property.
- Negative impact on farmyard. Will give rise to complaints in respect of agricultural operations and health and safety concerns on basis of proximity to farmyard.
- Need for this accommodation has not been demonstrated and the proposal is contrary to rural housing policy

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The Planning Authority did not respond to the appeal.

6.2 First party response

The response submitted by JK Design on behalf of the first party is summarised as follows:

- Structure subject of the appeal was always used as part of the main house dairy, storage, boiler house and was renovated following extension of the dwelling permitted in 2004.
- Acknowledge that unauthorised development occurred however every effort has been made to regularise the situation.
- Applicants have retired from the farm and intend to live in the granny flat while their son and family will occupy the main dwelling. Granny flat will always be part of the family home and jointly occupied as a single housing unit.
- No invasion of privacy will occur as there are no windows from the granny flat extension overlooking the neighbouring property.
- Concerns regarding noise odour etc. from adjacent farm yard will not be an issue as the applicants are also involved in the farming business.

7.0 POLICY CONTEXT

7.1 The Laois County Development Plan 2011-2017 refers. Rural Housing Strategy is set out at 3.24. The site falls within the designated Structurally Weak Rural Area.

7.2 In relation to Housing in the Countryside, It is the policy of the Council:
DPS 3/P45 *Facilitate the provision of accommodation for older people and dependant relatives attached to the existing family home subject to compliance with the following criteria:*

- *be attached to the existing dwelling,*
- *be linked internally with the existing dwelling*
- *not have a separate access provided to the front elevation of the dwelling*
- *be of appropriate size and design*
- *be capable of being served by adequate foul drainage facilities.*

8.0 ASSESSMENT

8.1 The key issue arising in this appeal are:

- Principle of development.
- Impact on the amenities of the area and particularly those of the adjacent dwelling and farmyard.
- Appropriate Assessment.

8.2 Principle of Development

8.2.1 The application details a justification for the granny flat which is to be occupied by a family member of the occupant of the main dwelling. I note the

provisions of DPS 3 P/45 which sets out a number of requirements in respect of “*accommodation for older people and dependant relatives attached to the existing family home*” including a requirement which requires that such accommodation be attached to the existing dwelling and linked internally. The structure in the appeal case is a standalone structure however it is to the rear and within 7.5m of the main dwelling. Whilst it does include an entrance doorway at lower ground floor level opening onto the laneway along the eastern boundary of the site, this is a secondary entrance and the main entrance to the structure is from within the dwelling site. I consider that on the basis of the unique circumstances and context of the site and location of the structure relative to the main dwelling and the farmyard, the principle of development is acceptable. As regards issues raised in respect of the planning history on the site and conflict between the development proposed and conditions of the previous permission restricting use of the structure I have noted these concerns however consider that the current appeal can be assessed on its merit.

8.3 Impact on the amenities of the area and particularly those of the adjacent dwelling and farmyard.

8.3.1 As regards impacts on the amenities of the area, the application details include a report by the agent for the applicant indicating that walkover inspection of the percolation area indicated no signs of ponding or nitrification of vegetation and concluded that the septic tank was functioning well and is of adequate capacity to cater for the combined load from the dwelling and proposed granny flat. I would concur that on the basis of my site inspection there was no evidence of any public health issues in relation to wastewater treatment and consider that this can be addressed by condition.

8.3.2 In relation to the context of the appeal site, I note that the site layout plan submitted with the application is deficient in terms of its failure to show the adjacent disused dwellinghouse and farm buildings owned by the third party appellant which are located on the opposite side of the laneway to the southeast of the appeal site. However these structures are clearly demonstrated on site location plans. The closest structure is a disused dwellinghouse located on the opposite side of the laneway within approximately 10m of the appeal structure proposed for change of use and extension.

8.3.3 As regards overlooking of the Third Party Appellant’s adjacent dwelling and farmyard I note that there are no windows on the eastern elevation of the building and having regard to the orientation of the appeal structure I do not consider that the windows on its southern elevation give rise to significant overlooking or negative impact on the adjacent farm yard. On this basis I consider that the development is acceptable and will not impact unduly on the amenities of the adjacent dwelling or the amenities of the area.

8.4 Appropriate Assessment

- 8.4.1 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment and proximity to 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 either individually or in combination with other plans or projects on a European Site.

9.0 RECOMMENDATION

- 9.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development and the unique circumstances of the appeal site, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the amenities of adjoining neighbours or the character of the area. The proposal would therefore be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed 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.

Reason: In the interest of clarity.

2. The existing dwelling and proposed granny flat shall be jointly occupied as a single residential unit and the granny flat shall not be sold, let or otherwise transferred or conveyed save as part of the dwelling.

Reason: To restrict the use of the granny flat in the interest of residential amenity.

3. Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 4 The septic tank drainage system shall be in accordance with the standards set out in the document entitled “Wastewater Treatment Manual – Treatment Systems for Single Houses” – Environmental Protection Agency 2000.

Reason: In the interest of public health.

Bríd Maxwell
Planning Inspector
1/6/2016