



An
Bord
Pleanála

Inspector's Report ABP-305413-19

Development	Retention of storeroom, alterations & fenestration changes to garage/studio permitted under P.A. Ref. 16/754 and retention of partial change of use of first floor studio for use as an office and bedroom ancillary to the main dwelling
Location	Ballycummisk, Ballydehob, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/369
Applicant(s)	Paul & Breda Goss
Type of Application	Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Joseph O'Sullivan
Date of Site Inspection	13 th December, 2019
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is located in a remote rural area approximately 4km south of the village of Ballydehob in West Cork. There is an existing detached, two-storey house with a detached garage-type structure to the west of it and a detached shed to the east. The garage provides accommodation for cars at ground floor level and the upstairs is laid out in accordance with the submitted plans in the planning application.

2.0 Proposed Development

- 2.1. The proposed development would comprise the retention of a flat roofed store room on the perimeter of a garage, the retention of alterations and fenestration changes to a garage/studio that was permitted under P.A. Ref. 16/754, and the retention of a partial change of use of a first floor studio for use as an office and a bedroom that would be used for overflow sleeping accommodation and would be ancillary to the main dwelling.
- 2.2. Details submitted with the application included a letter explaining the reasoning behind the changes for retention and a letter with the planning application referred to a requirement for overflow accommodation because the family of seven was operating a rotation care system for their father.

3.0 Planning Authority Decision

3.1. Decision

On 19th August 2019, Cork County Council decided to grant permission for the proposed development subject to 6 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history, objections received and reports received. Reference was made to development plan requirements for ancillary family accommodation. There was no objection to retention of the garage and a small

studio apartment for family use. A recommendation seeking further information was made, based on the Area Engineer's recommendation and seeking a layout plan showing the location of a building on the eastern side of the dwelling on the site.

3.2.2. Other Technical Reports

The Area Engineer noted that entrance walls are constructed outside of the site boundary and stated that, if the walls are to be included in the retention under "associated site development works", this would need to be clarified. It was submitted that any construction outside of the site boundary is not permitted without a written agreement with the landowner. It was further submitted that a report from a suitably qualified specialist should be supplied to ensure that the waste water treatment system on site is suitable for the proposed PE and to show that it is functioning correctly.

Following the receipt of further information, the reports to the planning authority were as follows:

The Engineer had no objection to the proposal subject to conditions.

The Planner considered the issue relating to the entrance wall was a civil matter and noted the Area Engineer's submission. A grant of permission subject to conditions was recommended.

3.3. Third Party Observations

An objection to the proposal was received from Joseph Collins. This raised concerns about the retention of an entrance wall on the northern side of the entrance. A second objection was received from Joseph O'Sullivan. The grounds of the appeal address the principal planning concerns raised.

4.0 Planning History

P.A. Ref. 16/754

Permission was granted for a garage and first floor studio and a conservatory extension. The first floor studio was open plan. Condition 3 of the permission

restricted the use to use incidental to the enjoyment of the house and prohibited use for human habitation.

5.0 Policy Context

5.1. Cork County Development Plan

Environment

The site is located within an area designated 'High Value Landscape'. This is considered a vulnerable landscape with the ability to accommodate limited development pressure.

Provision of Ancillary Family Accommodation in Granny Flats

Consideration can be given to building ancillary accommodation either as an extension to an existing house or as a separate dwelling unit in cases where it can be shown that such is required for a family member. This would include circumstances where a member of the family requires separate living space which is on the same property as the main dwelling. Such units can be established in conjunction with a dwelling house, either within or attached to the house but within the bounds of that site.

This provision allows families to provide accommodation for older or disabled relatives/persons. These units should be permitted where the following criteria can be met:

- There is only one dwelling and one ancillary accommodation unit on the same site.
- The ancillary unit should not impact adversely on either the residential amenities of the existing property or the residential amenities of the area.

- The property and site should not be subdivided.
- The unit should be integrated visually with the existing dwelling.
- Additional parking, sewage treatment units or private amenity space is not required.
- The unit should not be sold off separately from the existing dwelling and a Section 47 agreement should be entered into by the property owner to ensure that any physically separate unit be retained as part of the existing property in perpetuity as a burden on the title.

5.2. **Appropriate Assessment**

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.3. **EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of the appeal may be synthesised as follows:

- The appellant sets out details of how development progressed at the site, notably in relation to the two outbuildings on the site.

- The garage/house was constructed in one piece and was not built as per the plan and then altered. It was completed with bedrooms before the demise of the applicant's mother.
- If the applicant's father is living in the main house then he is accommodated.
- The appellant's property looks down on the appeal site and he has never witnessed activity requiring seven people on a permanent basis to look after one man.
- The conditions attached to the granting of retention have no value whatsoever.
- There is a duty to protect the very valuable landscape at this location.

The appeal included correspondence with the planning authority relating to the construction of a wall at the entrance, percolation requirements, and the existence of another shed on the site.

6.2. Applicant Response

The applicant's response to the appeal refers to the planning history of the site, information on the applicants and the need for the development, and the technical details of the appeal submission. The response to the appeal may be synthesised as follows:

- The stone clad building is cut into the high ground at the rear, it respects the character of the existing dwelling and fits appropriately into the landscape.
- The site of the current application corresponds with the registered boundary and does not include any development outside that boundary.
- The part conversion of the studio is to provide overflow living accommodation required for family members primarily to assist in the care of the applicants' elderly parents and is not for any other purpose. The change of use is in accordance with policy set out in paragraphs 5.7.12 and 5.7.13 of Cork County Development Plan. Condition 2 of the planning authority's decision ensures the unit cannot be separated from the dwelling.

- The prefabricated shed between the house and the eastern boundary is not the subject matter of the current application.
- The septic tank is installed to a high standard and is adequate to accommodate the increased load.

The applicants' response includes letters from a GP, the applicants, and a Peace Commissioner, and a copy of a letter sent to the planning authority.

6.3. **Planning Authority Response**

The planning authority stated that it had no further comments to make.

7.0 **Assessment**

- 7.1. I first note that any decision arising from this planning application should not, and would not, purport to address any issue relating to the entrance details to this site. Any such land dispute issues that have arisen in this planning application process to date lie outside the scope of the Board's considerations. Furthermore, the issue of enforcement in relation to the shed to the east side of the house is a matter for the planning authority to address and is not a matter for the Board.
- 7.2. I acknowledge the very sensitive location of the proposed development. This site is in a highly scenic, sensitive, coastal, rural location that is designated in the Cork County Development Plan as a 'High Value Landscape. This is accepted as being a vulnerable landscape with the ability to accommodate limited development pressure. In the instance of the current proposal, I am satisfied to deduce that the siting and form of the structure that is the subject of this appeal does not have any distinctive adverse visual impact on the landscape in itself, particularly when regard is had to the nature and extent of development in the immediate vicinity. Thus, it could not reasonably be determined that the structure is highly visually intrusive within the sensitive landscape that it is set. Furthermore, it is also reasonable to conclude that the serviced nature of this site could undoubtedly make adequate provision for the servicing of the structure to meet its needs as incidental accommodation to the existing house or, indeed, as residential accommodation. The sole principal planning issue, in my opinion, that merits consideration is the proposed residential use.

- 7.3. Paragraphs 5.7.12 and 5.7.13 of Cork County Development Plan relate to the provision of ancillary family accommodation in granny flats. It is very clear that the development the subject of the appeal is not a 'granny flat'. The person requiring accommodation, i.e. the applicants' father (and father-in-law) is being accommodated in the existing house. According to the application details, the accommodation in the garage seeks to provide for family visitors. In my opinion, this is not a 'granny flat' in any conventional understanding of the term. In such a highly sensitive landscape coastal context in West Cork, one would have to be very concerned about the precedent any grant of permission for such a use would set. This type of residential accommodation is not one to be encouraged in this designated High Value Landscape area.
- 7.4. It is my submission to the Board that there is no independent, separate housing need arising in this instance to allow for this garage to effectively accommodate an apartment at first floor level. Indeed, I strongly maintain that this is not the purpose for which paragraphs 5.7.12 and 5.7.13 are provided in Cork County Development Plan. The grant of permission for the development proposed allows for a separate second living unit that would be contained within what has up to this time been defined as a single planning unit for residential purposes.
- 7.5. When considering the proposed development in the context of paragraphs 5.7.12 and 5.7.13 of Cork County Development Plan, one can clearly see that it has not been shown that this independent living accommodation is required. There is no provision in the current Development Plan to allow for development of the nature proposed.

8.0 Recommendation

- 8.1. I recommend that permission is refused for the following reason and considerations.

9.0 Reasons and Considerations

It is a provision of Cork County Development Plan 2014 that consideration can be given to building ancillary accommodation either as an extension to an existing

house or as a separate dwelling unit in cases where it can be shown that such is required for a family member. This is based upon circumstances where a member of the family requires separate living space which is on the same property as the main dwelling. The proposed living accommodation at first floor level in the existing garage is not required as separate ancillary accommodation to the existing house on this site as the family member requiring accommodation is being provided for within the existing house. It is considered that the proposed development, comprising a second separate, independent residential unit on the site, would be contrary to the provisions of Cork County Development Plan as they relate to the provision of ancillary family accommodation in granny flats, would constitute an undesirable precedent for development of this nature in a scenic, sensitive rural landscape designated 'High Value Landscape' in the County Development Plan, and would otherwise be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

17th December 2019