



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306320-20

<b>Development</b>	Retention of existing structure to rear of dwelling for use as a games/recreational room and all associated site works
<b>Location</b>	No. 29 Woodlawn Park , Borris , Co. Carlow
<b>Planning Authority</b>	Carlow County Council
<b>Planning Authority Reg. Ref.</b>	19355
<b>Applicant(s)</b>	Frank Conroy
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Joan Earls
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	27 <sup>th</sup> February 2020
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.0462 ha is located within the curtilage of an existing single storey semi-detached dwelling at Woodlawn Park; an established residential development of single storey semi-detached houses located at the north east end of Borris Village. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

2.1. Planning permission is sought for the retention of existing structure (19.65 sqm) to the rear of a dwelling for use as a games / recreational room together with all associated site works.

2.2. Further information was submitted on the 13<sup>th</sup> November 2019 summarised as follows:

- Drawing 19-010-002 showing the detail layout of the area for retention (toilet, counter, games / recreation room)
- Letter from the applicant stating that the games / recreation room is for personal use for the applicant and their family and is ancillary to the enjoyment of the house

## 3.0 Planning Authority Decision

### 3.1. Decision

Carlow County Council issued a notification of decision to grant permission subject to 7 no conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The **Case Planner** in their first report recommended that further information be sought requiring clarification of the full nature and extent of the use of the structure

with reference to the bar use as observed on site. **Further information** was requested on the 30th September 2019

- The **Case Planner** in their second report and having considered the scheme recommend that permission be granted subject to conditions. The notification of decision to grant permission issued by Carlow County Council reflects this recommendation.

#### 3.2.2. Other Technical Reports

- **Water Services** – No objection
- **Environment** – No objection subject to conditions relating to surface water.
- **Fire Officer** – No objection.
- **Municipal District** – No stated objection.
- **Transportation Department** – No roads related reason to refuse. Recommended a grant of permission.

#### 3.3. Prescribed Bodies

- **Irish Water** – No objection

#### 3.4. Third Party Observations

- Cllr Tommy Kinsella – Supports the retention of the building
- Joan Earls – Raised concern in relation to over development, loss of visual amenity, invasion of privacy, overlooking and future potential use for residential accommodation.
- Joan Earls – Having regard to the further information submitted raised concerns in relation to the absence of reference to an electric shower, no indication that there is a sink and queried what was the use of vacant area between the toilet and the bar.

### 4.0 Planning History

- 4.1.1. No history has been provided with the appeal and there is no evidence of any previous appeal on this site.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Carlow Development Plan 2015 – 2021**. Chapter 10 deals with Environmental Management, Infrastructure and Water Services. Chapter 11 deals with Design and Development Standards.

### 5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. It is noted that the River Barrow and River Nore SCA is located some 0.57 km to the southwest of the site.

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development in an established urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The third-party appeal has been prepared and submitted by Joan Earls, No 28 Woodlawn Park, Borris (adjoining property to the south) and may be summarised as follows:
- The development structure is excessive in height and scale and has an extremely negative effect on the appellants property and surrounding residential environment.
  - There is gross overlooking into every room to the rear the appellants property and garden which is an infringement on the appellants Human Right to Privacy. The double front French doors face the appellants kitchen. There is an increase in

people coming and going when there are festivities and family occasions with people looking towards the appellants kitchen window.

- Concerns for the long term use of this building for permanent occupation are raised.

## **6.2. Applicant Response**

6.2.1. The applicant submitted the following response to the appeal as summarised:

- Photos of the fence on the adjoining wall at No 29 Woodlawn Park. The photos submitted with the appeal were taken 18 months ago and do not show the fence. The fence is 6ft high and gives the appellant plenty privacy.
- The way both houses were built means that the appellants kitchen is looking straight into the applicants back yard. This is the reason the fence was erected.
- There is no shower or kitchen in the structure.

## **6.3. Planning Authority Response**

6.3.1. Carlow County Council in their response set out the following as summarised:

- The stated domestic use of the structure (games / recreation room) incidental to the use of the house on the site would not result in negative impacts on the residential amenities of the area.
- The location, single storey height and orientation of the structure was also considered as well as the remaining rear garden space on the site and the separation distances to shared party boundaries in terms of window and door replacements.
- A restriction on the use of the structure and the site with planning conditions was deemed to be appropriate.

## **6.4. Observations**

6.4.1. There are no observations recorded on the appeal file.

## 6.5. Further Responses

6.5.1. There are no further responses recorded on the appeal file.

## 7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Residential Amenity
- Future Use
- Other Issues

### 7.2. Principle

7.2.1. The single storey structure (19.65 sqm) to be retained is located to the rear of the existing dwelling and as documented on the appeal file and as observed on day of site inspection (site photos refer) is used as a games / recreational room. I agree with the Planning Authority that this is a domestic use that is incidental to the use of the main house on the site. Accordingly, I am satisfied that the principle of the development is acceptable at this location subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance

### 7.3. Residential Amenity

7.3.1. I note the concerns raised by the appellant, located on the site immediately adjoining the appeal site to the south, that there is an increase in overlooking by reason of people coming and going to the building subject of this retention. As pointed out by the applicant and as noted on day of site inspection the appellants house currently overlooks the appeal site by reason of existing windows on their northern elevation. Having regard to the location, scale and use (games / recreational room) of the structure to be retained together with the boundary treatment I agree with the Planning

Authority that it would not result in any significant negative impacts on the residential amenities of the area or in particular the appellants property to the south.

#### 7.4. **Future Use**

- 7.4.1. I note the concerns raised regarding the long-term use of this building for permanent occupation are raised. In this regard I note the approach taken by the Planning Authority and recommend that should the Board be minded to grant permission that a similar condition be attached requiring that the development be used solely for a purpose that is incidental to the enjoyment of the dwelling on the site and shall not be used as a self-contained dwelling unit, or for any business, trade, commercial activity or other non-domestic use.

#### 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development comprising a rear residential extension and its distance 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 individually or in combination with other plans or projects on a European site.

#### 7.6. **Other Issues**

- 7.6.1. **Development Contributions** – Carlow County Council has adopted a Development Contribution Scheme under Section 48 of the Planning and Development Act 2000 (as amended); Development Contribution Scheme 2017 – 2021. I refer to the Section 26 of the scheme where it states that “*applications for retention will be charged at the full rate under the scheme. Exemptions or reductions will not apply to retention applications*”. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

## 8.0 Recommendation

- 8.1. It is recommended that permission be **granted** subject to conditions for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Carlow Development Plan 2015 – 2021, to the location of the site in an established residential area and to the nature, form, scale and design of the development to be retained, it is considered that, subject to compliance with the conditions set out below, the proposed development not seriously injure the residential or visual amenities of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 13<sup>th</sup> day November 2019 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 prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>The development shall be used solely for a purpose that is incidental to the enjoyment of the dwelling on the site and shall not be used as a self-contained dwelling unit, or for any business, trade, commercial activity or other non-domestic use.</p> <p><b>Reason:</b> To regulate the use of the building and to protect residential amenities in the interest of the proper planning and sustainable development of the area.</p>

3.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health</p>
4.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</p>

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**Mary Crowley**

**Senior Planning Inspector**

**2<sup>nd</sup> March 2020**