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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Galway County Council**

**Planning Register Reference Number: 19/1082**

**Appeal** by Ronnie Ferguson and Orla Kenny care of John M. Gallagher of 1 Oldfield, Kingston, Galway against the decision made on the 5<sup>th</sup> day of September, 2019 by Galway County Council to grant permission to Catherine McDonagh of School Road, Carnmore, Oranmore, County Galway for development comprising construction of rear extension to existing dwellinghouse (extension to be linked to existing garage) and change of use of existing garage store to granny flat and retention of dwellinghouse and associated services on revised site boundaries at Carnmore West Townland, Oranmore, County Galway in accordance with the plans and particulars lodged with the said Council.

**Decision**

**GRANT permission for construction of rear extension to existing dwellinghouse and retention of dwellinghouse and associated services on revised site boundaries in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for change of use of existing garage/store to granny flat based on the reasons and considerations marked (2) under.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations (1)**

Having regard to the planning history of the subject site and to the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the retention of the existing house and the proposed extension to this house would not seriously injure the residential amenities of adjoining property, would not be prejudicial to public health and would comply with the provisions of the current Development Plan for the area. The development for which retention is sought, and the proposed extension would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

- 1 The development shall be retained, and carried out, as applicable, in accordance with the plans and particulars lodged with the application, as amended by additional plans and particulars submitted to the planning authority on the 27<sup>th</sup> day of August 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 within six months of the date of this Order, or prior to the commencement of development of the proposed extension, as applicable, and the development shall be retained and carried out and completed in accordance with the agreed particulars.

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

2. The proposed development shall be amended as follows:-

The northern window in the extension shall be omitted, and no window shall be provided in the north elevation of the proposed extension.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of construction of the extension.

**Reason:** To protect the residential amenity of adjoining property.

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

**Reason:** To restrict the use of the extension in the interest of residential amenity.

4. (a) The dwelling for which retention is sought, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted in writing by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect within three months of the date of this Order.

- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the house for which retention is sought is used to meet the applicant's stated housing needs, having regard to the planning history of the subject site and the terms of previous planning permission register reference number 14/449, and to ensure that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

5. The existing wall along the northern site boundary shall be completed to a height of 1.8 metres and shall be capped, within six months of the date of this Order.

**Reason:** To protect the residential amenity of adjoining property.

6. 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 within six months of the date of this Order unless, prior to that date, the financial contribution under condition number 16 of planning permission register reference number 14/449 has been paid 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.

**Reason:** 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.

## **Reasons and Considerations (2)**

On the basis of the submissions made in connection with the planning application and appeal, and the site visit undertaken by the Board's Inspector, it appears to the Board that the proposed change of use of the garage to use as a granny flat has already occurred. The structure in its current form is therefore unauthorised and, because the application as submitted to the planning authority was stated to be for the proposed change of use of this garage to use as a granny flat, and not for the retention of this change of use, it is therefore considered that it would be inappropriate for the Board to consider a grant of permission in such circumstances.

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**Philip Jones**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2020.**