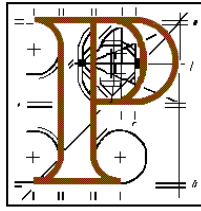


An Bord Pleanála



Inspector's Report

PL17.245752

DEVELOPMENT:- Retention of alterations to a domestic garage granted under Reg. Ref. AA/140523.

Location: Sicily, Balrath, Navan, County Meath.

PLANNING APPLICATION

Planning Authority: Meath County Council
Planning Authority Reg. No: AA/150886
Applicant: Shane Curtis
Application Type: Retention of Planning Permission
Planning Authority Decision: Grant

APPEAL

Appellant: Kevin Traynor
Types of Appeal: 3rd party -v- Grant
Observers: None
DATE OF SITE INSPECTION: 18th January, 2016.

INSPECTOR: Paul Caprani

1.0 INTRODUCTION

PL17.245752 relates to a third party appeal against Meath County Council's notification to grant planning permission for the retention of alterations to a domestic garage associated with a dwelling previously granted permission outside Kentstown in County Meath. The grounds of appeal argue that the size and scale of the garage for which retention is sought is excessive and that the drawings submitted with the application for retention are inaccurate. It is also argued that the proposed development will impact on the appellant's amenity in terms of overshadowing and overlooking.

2.0 SITE LOCATION AND DESCRIPTION.

The appeal site is located in the vicinity of Brien's Cross in the townland of Sicily on the northern side of the R150 between the villages of Kentstown and Duleek in central Meath.

The appeal site is located approximately 250 metres east of the N2 National Primary Route which runs north-westwards towards the village of Slane (c. 9km away).

The subject site is located centrally within a row of one-off dwellings located on the northern side of the Regional Route R150. The site is roughly rectangular in shape and has a road frontage of just over 55 metres and a depth of approximately 48 metres. The overall area of the site is stated as 0.25 hectares.

Planning permission was recently granted to demolish an existing dwellinghouse on site and to construct a replacement single-storey dwellinghouse with a domestic garage and new wastewater treatment system. The dwellinghouse is centrally located within the site with the vehicular access at the south-eastern corner. A two-storey garage is located in the north-western corner of the site. According to the drawings submitted this garage is located approximately 1.8 metres from the eastern boundary of the site and approximately 1.6 metres from the rear boundary of the site. The garage rises to a ridge height of 6.45 metres and occupies a net floor area of 88 square metres. (11.6 metres in length and 8.6 metres in depth). Two garage doors are located on the front (east) elevation to facilitate the parking of two vehicles. A separate doorway is also provided on this elevation. A total of 6 velux windows are proposed within the roof pitch, two on the east

and four on the west. The garage incorporates a natural stone finish. The garage incorporates a natural stone finish.

The lands to the immediate east of the site accommodate an existing dwelling and a small detached garage. The drawing submitted with the planning application indicate that this site is under the applicant's ownership.

Lands to the immediate west of the site which are occupied by the appellant accommodate a single storey cottage type dwelling which is located to the front of the site. The front of the building is set back approximately 3 metres from the roadside boundary. The rear of the appellants dwelling is situated one to two metres forward of the south elevation of the garage. At its closest point the separation distance between both buildings is c. 8 metres.

3.0 PLANNING HISTORY

Under Reg. Ref. NA/40439 planning permission was granted under AA/140523 to demolish an existing dwellinghouse and construct a replacement single-storey dwelling with domestic garage and new wastewater treatment system and percolation area. The drawing submitted with the application indicates that the garage is located in the north-western corner of the site in a similar position to that constructed on site.

However the original drawings indicated that the front elevation faces southwards as opposed to eastwards, as such the building has been re-orientated 90°. The overall height of the garage in the original application granted under Reg. Ref. AA/140523 was 5.65 metres to ridge height. According to the drawings submitted for retention of permission the ridge height increased to 6.45 metres. Also under the retention application, velux windows have been incorporated into the roof pitch and an additional window has been incorporated into the south elevation of the garage.

4.0 PROPOSED DEVELOPMENT

Planning permission is sought for the alterations to the garage as constructed on site. These alterations comprise of the following:

- A reorientation of the building by 90 degrees so as the main elevation faces eastwards as opposed to southwards.
- The incorporation of an increased ridge height of just under 0.8 metres.
- The incorporation of velux windows in the roof pitch and the incorporation of an additional window on the southern elevation.
- The proposed increase in height is to accommodate a loft storage area according to the information submitted with the application.

5.0 PLANNING AUTHORITY'S DECISION

The planning application was lodged on 26th August, 2015.

A letter of objection from the current appellant has been lodged the contents of which have been read and noted.

The planner's report dated 15th October, 2015 concludes that the development will not have any negative implications for the residential and visual amenities of the area and therefore is in accordance with the proper planning and sustainable development of the area. It is therefore recommended that planning permission be granted subject to three conditions. Condition No. 2 states that the proposed garage shall be used solely for the purposes incidental to the enjoyment of the dwellinghouse and shall not be used as a separate habitable unit, commercial store, workshop or for the housing of animals other than domestic pets. No business trade or commercial activity of any kind shall take place within the development other than that permitted by way of exempted development without prior planning permission having been first obtained.

The decision of Meath County Council to grant planning permission was dated 19th October, 2015.

6.0 GROUNDS OF APPEAL

The decision of Meath County Council to issue notification to grant planning permission was subject of a third party appeal by the owners of the adjoining dwelling to the immediate west. The grounds of appeal are outlined below.

- The garage as constructed consists of a large two-storey structure located contiguous to the boundary to the rear of the appellant's cottage.
- The drawings submitted with the application for retention are inaccurate. It is stated that the siting of the building is incorrect and the dimensions on the drawings are also incorrect as they show a smaller structure in an incorrect location. This appears to be a deliberate attempt to deceive the Planning Authority and the adjoining owners.
- The proposed two-storey garage is inappropriate in an area characterised by single storey structures. The proposed two-storey garage completely dominates the appellant's single storey cottage.
- The proposed garage will lead to overshadowing of the appellant's garden particularly in the morning time.
- The proposed velux windows on the roof pitch will directly overlook the appellant's cottage and garden resulting in a loss of privacy.
- The garage has been built right up to the boundary line and partially encroaches on the appellant's property.
- The proposed garage appears to be designed to provide residential accommodation at first floor level and the conditions attached by the Planning Authority are "almost unenforceable" as local authorities have neither the time or the resources to carry out periodic checks.

7.0 APPEAL RESPONSES

7.1 Response on behalf of the Applicant

The response sets out the background to the current application on site.

With regard to the specific issues raised in the grounds of appeal, reference is made to the original planning application (AA/140523) which clearly indicates that planning permission is sought for a two-storey garage. Furthermore the site layout plan submitted under the current application show the correct roof plan and garage for the house.

Photographs are submitted which clearly indicate that the garage has not been constructed contiguous to the common boundary.

The drawings submitted under Ref. AA/150886 clearly state the proposed height of the garage and this is also clearly reflected in the newspaper notices. It is also stated that there are a mix of single-storey and two-storey houses within the vicinity of the subject site. It is contended that the garage does not dominate the appellant's cottage. The garage is constructed in natural stone and brick and is therefore in accordance with the vernacular character of cottages in the area.

With regard to overshadowing, it is stated the sun rises in the east and moves to the south and as such sunlight penetration is not interfered with and therefore there is no loss on amenity. The velux windows proposed are to provide natural light. They are located approximately 1.95 metres above the finished floor level of the first floor thereby making it very difficult to overlook the appellant's garden. The proposed garage in no way encroaches into the appellant's property. The upper floor will be used solely for the purposes incidental to the enjoyment of the dwellinghouse.

It is also noted that the conditions of the grant of planning permission under AA/140523 requires a landscape design to be incorporated. This will include a new hedgerow which will reduce the view of the garage.

7.2 Planning Authority's Response to the Grounds of Appeal

A submission from Meath County Council states that it has considered all the concerns outlined in the initial submission to the Planning Authority, and these concerns have been taken into consideration in determining the application. As no further substantive issues have been raised in the subsequent appeal to the Board it is considered that the Planning Authority's initial decision is consistent with the planner's report and the policies as set out in the current Meath County Development Plan.

8.0 DEVELOPMENT PLAN PROVISION

The site is governed by the policies and provisions contained in the Meath County Development Plan 2013-2019. The site is not governed by any designated zoning provisions. There are no specific policies in respect of ancillary residential garages set out in the Development Plan. General residential design criteria are set out in Section 11.2.2 and Section 10.7 of the Development Plan. In general it is essential that care

is exercised in the siting and design of new buildings to ensure that they can be integrated harmoniously with the surroundings and thereby protect the amenity and character of the countryside of County Meath. Detailed design guidelines for the siting of new rural dwellinghouses are set out in Appendix 15 of the Development Plan.

9.0 PLANNING ASSESSMENT

I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal and the original grant of planning permission relating to the site. In determining the application and appeal before the Board I consider the following issues to be particularly relevant.

- Accuracy of Drawings Submitted
- Size and Scale of Garage in the Context of Existing Structures in the Area
- Impact on Adjoining Amenity
- Permitted Uses in the Structure

9.1 Accuracy of Drawings Submitted

I consider the drawings submitted with the application represent an accurate depiction of the building constructed on site. The drawings submitted with the application clearly indicate the reorientation of the building to reflect the changes as built on the ground. Drawing No. 486/02/005, Drawing No. 486/02/006 and Drawing No. 486/02/007 depict the building as constructed on the ground. It is clear from the drawings submitted and the photographs attached taken during my site inspection, together with the photographs submitted in the grounds of appeal, that the drawings submitted with the current application reflect the building as it has been constructed on site. Some confusion may arise in respect of Drawing No. 486/02/003 which relates to the original garage granted under AA/140523. It appears that the southern elevation of the original garage as granted is depicted in these drawings as the eastern elevation and this may have given rise to some confusion in the grounds of appeal. While there appears to be a mistake in this drawing, it is not considered that a small incorrect reference to the elevation on the garage as granted under the original application, should be seen as fatal to the current application before the Board.

With regard to the position of the building it is clear from the photographs contained on file and the photographs attached to this report that the building does not impinge or overhang the appellant's property. These photographs clearly indicate that there is a separation distance in excess of a metre between the common boundary and the garage development.

However it was apparent from my site inspection that the garage is located closer to the appellants dwelling than that indicated on the site layout plan. The footprint of the building is located on a position further south (c. 3 to 4 meters) and it is therefore closer to the rear of the adjoining dwelling than that indicated on the site layout plan submitted (see photo no. 5 attached to this report). The Board may wish to request further drawings which correctly indicate the location of the building on the ground. However it may also consider this to be unnecessary if it comes to the conclusion that the impact on amenity is acceptable (see further section below).

9.2 Size and Scale of the Development

The development as constructed represents a two-storey garage development rising to a ridge height of 6.45 metres. While this may be considered high for an ancillary garage development, it should be borne in mind that the original grant of planning permission permitted a development 5.65 metres in height. The increase in ridge height amounts to less than a metre in this instance. It should also be noted that the overall footprint of the building has not been enlarged.

I do not consider the two-storey nature of the garage is uncharacteristic of the area particularly having regard to the size and scale of the dwelling currently being constructed on site and dwellings in the wider area. While I acknowledge that the applicant's dwelling comprises of a single-storey structure I note that there are a number of two-storey dwellings in the vicinity of the site and I do not consider that the garage in question, which is set back from the public road represents an incongruous addition which is uncharacteristic of buildings in the wider area.

9.3 Impact on Amenity

The grounds of appeal argue that the garage as constructed on site will adversely impact on adjoining residential amenities. It should be noted

that the rear garden of both the applicant and the appellant's dwellinghouse are north facing and as such, the respective main dwellings on the subject sites are likely to give rise to greater levels of overshadowing than any structure located in the rear garden of either site. The garage in question is located to the immediate east of the appellant's lands. The potential impact therefore in terms of overshadowing will be restricted to the morning times only, particularly during the winter months when gardens tend to be less utilised for the purposes of amenity. While the presence of a garage structure in such close proximity to the appellant's boundary may somewhat exacerbate overshadowing during the morning period outside the summer months, the Board will note that the extant permission for the garage permits a structure with a ridge height of over 5.6 metres. The additional overshadowing resulting from the garage constructed on site would be negligible and would not be material in amenity terms in my opinion.

In relation to overlooking the velux windows on the western pitch of the garage are situated midway along the roof pitch and are estimated to be at least 1.6 metres above the finished floor levels of the first floor within the garage. Because of the height of the velux windows within the roof pitch together with the angle of the window within the roof pitch, it is highly unlikely that any overlooking could occur into the appellant's rear garden.

It is also apparent from the information contained on file that the upper level of the garage is to be used as storage loft only and therefore it is likely to be infrequently used for example on a daily basis. It is not proposed to use the first floor for habitable purposes and this will significantly reduce the potential to overlook the rear garden with the appellant's property.

I therefore do not consider that the garage structure as constructed will materially impact on the appellant's amenity in terms of either overlooking or overshadowing.

9.4 Permitted Uses within the Structure

It is clear from the covering letter submitted with the application that the garage is intended to be used as ancillary to the overall house and the loft area will be used purely for storage purposes. Furthermore Condition No. 2 of the Planning Authority's grant of permission clearly states that the proposed garage shall be used solely for the purposes incidental to the enjoyment of the dwellinghouse and not as a habitable

unit, commercial store, workshop or for the housing of animals other than domestic pets. The condition also stipulates that no business trade or commercial activity of any kind shall take place within the garage (other than that permitted by way of exempted development) without obtaining planning permission. Therefore notwithstanding the concerns expressed in the grounds of appeal, the uses permitted within the garage structure are restricted to those ancillary to the enjoyment of the dwellinghouse and therefore cannot be used to provide residential accommodation at first floor level without first obtaining planning permission. Any such future application would be determined on its merits and in accordance with the proper planning and sustainable development of the area.

Finally I do not agree with the contention that conditions attached to planning permissions are almost unenforceable as suggested in the grounds of appeal. It is clear that any use of the garage and in particular the upper floor area of the garage as residential accommodation would constitute unauthorised development and would trigger enforcement proceedings by the local authority in order to comply with the grant of planning permission. I would recommend that if the Board are minded to grant planning permission in this instance that a similar condition be attached restricting the garage to uses ancillary to the enjoyment of the dwellinghouse.

10.0 Appropriate Assessment

The closest European Site is the River Boyne and River Blackwater SAC (Site Code 002299) which is located approximately 6.5 km to the north of the site. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the 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 individually or in combination with other plans or projects on a European site'.

11.0 CONCLUSION AND RECOMMENDATION

Arising from my assessment above I consider the current application for retention of planning permission to be acceptable in this instance. The reorientation of the garage together with the increase in height and the use of the first floor for storage accommodation would not adversely affect the residential or visual amenities of the area and would otherwise

be in accordance with the proper planning and sustainable development of the area. I therefore recommend the Board to grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

It is considered that the retention of planning permission for the alterations to the domestic garage that was granted planning permission under planning Reg. Ref. AA/140523 would, subject to conditions set out below, would not seriously injure the residential or visual amenities of the area and would otherwise be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained and completed in accordance with the 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 prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The structure shall be used solely for purposes incidental to the enjoyment of the dwellinghouse and shall not be used as a habitable unit, commercial store, workshop or the housing of animals other than domestic pets. No business trade or commercial activities other than that permitted by way of exempted development shall take place within the structure in the absence of obtaining planning permission.

Reason: 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.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. All external finishes including materials, colours and textures shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

**Paul Caprani,
Senior Planning Inspector.**

19th January, 2016.

sg