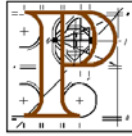


An Bord Pleanála



Inspector's Report

Appeal Reference No: 19.246154

Development: Permission to retain existing garage as constructed as differs from previously granted under File ref. No. 08/314 at Killaderry, Daingean, Co. Offaly

Planning Application

Planning Authority: Offaly County Council

Planning Authority Reg. Ref.: 15/324

Applicant: Martin Egan

Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): Aaron and Paula Mullan

Type of Appeal: Third Party

Observers: Enda and Mary Scully

Date of Site Inspection: 25th May 2016

Inspector: Joanna Kelly

1.0 SITE LOCATION AND DESCRIPTION

The appeal site, a rectangular shape with a stated site area of 0.202ha, contains a detached residential units with the garage located to the side. The site is located along a stretch of road characterised by detached dwellings on large plots. The existing garage is visually prominent on the approach road from Daingean being located along the party boundary where there is no screening from the public road.

It was not possible to gain access into the garage at time of inspection. However, it was noted that the garage would appear to be fully serviced i.e. water connections etc. There are three rooflights contained on the northern roof plane. There are three roller shutters on the existing structures.

2.0 PROPOSED DEVELOPMENT

The proposal is to retain existing garage as constructed as differs from previously granted under File ref. No. 08/314. The garage is approx. 6m in height and has a floor area of approx. 144sq.m.

3.0 PLANNING HISTORY

File ref. No. 08/314 Permission granted to applicant for domestic garage on appeal site. The floor area was approx. 58sq.m. as indicated on the application form. It had an overall height of approx. 5.5m.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Planning report

The planning report noted two submissions raising concerns about overlooking and that the property was being used as a rented apartment. The planner noted that the property was not being used for residential accommodation and recommended a grant of permission.

Water services

No objection subject to conditions

Area Engineer

Condition recommended

4.2 Planning Authority Decision

The Planning Authority granted permission for the proposed development subject to 7 conditions as follows:

Condition 1	Compliance with plans submitted and conditions of permission
Condition 2	Surface water drainage
Condition 3	Limitations on use of garage

5.0 GROUNDS OF APPEAL

5.1 The grounds of appeal are summarised as follows:

- The sole reason for the objection is that the first floor is being used as living accommodation.
- There are three roof-lights that overlook the appellants' garden.
- Neighbours were invited by applicant to view "the flat" and introduced to the tenant which was fitted out with bedroom, living room and kitchen.
- Obscure contact film was fitted to the roof-lights to address the concerns of overlooking.
- A warning letter was issued to the applicant, which has forced him to apply for planning permission which was granted.
- Condition no. 3 stipulates that the garage shall not be used for human habitation.
- The tenant has lived there and continues to live there for almost two years.
- Reference is made to the tenant's habits, parking of car etc. Photographs have been submitted to support the appeal.
- The appellant expresses dismay at the decision of the Planning Authority.
- It is requested that that the roof-lights are either removed or raised in height as they currently overlook the appellant's property.

6.0 OBSERVOR

Enda and Mary Scully

Summary of main points are as follows:

- Express dismay at decision of local authority and condition 3 limiting use of garage when it clearly has been used for human habitation.
- The applicant himself indicated that the garage was renovated and was renting it out.
- The apartment overlooks the observers' garden
- Reference is made to the visit by the council and that nobody was living there. This is not the case as it is evident on a daily basis that someone is living there.
- The applicant is an employee of the Council and consider the application was unfairly heard.

7.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

7.1 Planning Authority response

The original planning report addressed the concerns by way of planning conditions. It is requested that the Board uphold the decision to grant permission.

7.2 Applicant's response to appeal

Applicant will comply fully with the conditions as set out in Planning Permission Decision PL2/15/324.

8.0 POLICY CONTEXT

The Offaly County Development Plan is the statutory development plan for the area 2014-2020.

Daingean is identified as a local service town in the development plan.

8.6.15 Family Flats / Granny Flats

The creation of a family flat, generically referred to as granny flats, to be occupied by a member of the occupant's family, is generally acceptable, provided it is not a separate detached unit, and it is possible to provide direct access to the remainder of the house. There shall be no permanent sub division of the garden/private amenity space. The flat shall not be let, sold or otherwise transferred, other than as part of the overall property and shall revert to being part of the original house when no longer occupied by the family member. The design should ensure that the flat forms an integral part of the main dwelling unit capable of reintegration for single family use and, from public view, retains the appearance of a single dwelling unit. Family flats are accepted in principle in urban and rural areas.

There is no specific reference to garages in the development management section.

9.0 ASSESSMENT

I have reviewed the proposal in the light of the current Development Plan, relevant planning history, and the submissions on file. The proposal is to retain and existing domestic garage on a site outside the settlement of Daingean. Accordingly, I consider that the pertinent issues pertaining to this appeal should be assessed under the following headings:

9.1 Acceptability of the proposed garage

The garage to be retained is considered larger than the typical domestic garage, with a floor area of approx. 140sq.m. The upper floor has a floor area of approx. 38 sq.m. and the floor to ceiling height is considered to be below that acceptable under Building Regulations for habitable space. The plans submitted indicate that the attic space is to be used for domestic storage.

With regard to the ground floor, whilst I consider the floor area to be excessive for a domestic garage, the use of such for tool storage, fuel and garage as indicated on the plans is considered reasonable in a rural area. The location of such is not such that impacts on the existing residential amenity *per se*. It is considered that the roof-lights are not such that I would consider would ordinarily give rise to overlooking by virtue of the distance to the nearest party boundary which is in excess of 25 metres. There is also a large hedgerow that runs along the party boundary which provides screening.

The nub of the issue raised by the appellants and the observer is that the upper floor of the garage has or is being used as habitable space. The appeal site contains a residential dwelling and as such the principle of the garage being used as a second residential unit is unacceptable. I acknowledge that the applicant has indicated that he would comply with condition 3 of the notification of the grant of permission which limits the use of the garage. As such I consider such a condition to be reasonable and the enforcement of same is a matter for the Council. Notwithstanding this, I consider that there is no requirement for the roof-lights on the garage and the omission of these will address the concerns of perceived overlooking and also will negate any possibility for the use of the upper floor as habitable space. The applicant has indicated on the plans that this area is for storage and as such I do not consider that windows on the roof plane are required.

9.2 Appropriate Assessment

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

10.0 CONCLUSIONS AND RECOMMENDATION

It is considered that the proposed development should be granted for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

Having regard to the nature of the proposed development the Board is satisfied that the proposed development would be in keeping with the existing character and pattern of development in the immediate area, would not give rise to overlooking and would not otherwise unduly detract from the existing residential amenities of the area. The proposal would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall have been 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. 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.

Reason: In the interest of clarity.

2. 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.

3. The roof-lights on the garage structure shall be permanently removed and roof openings re-instated with materials to match the existing roof.

Reason: In the interests of orderly development.

Joanna Kelly

Planning Inspector

26th May 2016