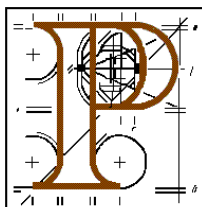


An Bord Pleanála



Inspector's Report

Retention of Detached Domestic Garage at Derrinlaur Lower, Clonmel, Co. Waterford.

Planning Application

Planning Authority:	Waterford City and County Council
Planning Authority Reg.	16/99
Applicant:	John Maber
Type of Application:	Permission
Planning Authority Decision:	Grant Permission with Conditions

Planning Appeal

Appellant(s):	Dermot Power
Type of Appeal:	3 rd Party Vs Decision
Observers:	None

Date of Site Inspection: 26th of July 2016

1.0 SITE LOCATION AND DESCRIPTION

1.1 The site is located in a rural area east of Clonmel town within the county bounds of Waterford. It is located off a short rural road off the R680 (Carrick-on-suir-Clonmel) which serves a cluster of rural dwellings and a castle in ruins.

1.2 The site is 0.39Ha and includes a stone faced dormer bungalow, and a detached stoned faced dormer garage. According to the application details the dwelling house is 260sq.m. and the garage is 158sq.m.

2.0 DEVELOPMENT

2.1 To retain a detached domestic garage (158sq.m.)

3.0 SUBMISSIONS RECEIVED

The neighbour objected to the development on the grounds of use of garage for habitable use, unauthorised development, condition No. 9 (a) of parent permission.

4.0 TECHNICAL REPORTS

Planning Section:

- Zoning Agricultural
- Warning Letter issued in respect of the development
- The subject garage has a games room, weights room, bathroom and store at first floor. The garage permitted under PD04/1494 had a ground floor area of 80sq.m. and a height of 8m. It was permitted as a double garage with storage space at first floor level.
- The applicant owns 4No. cars, a drift car, two motorbikes and two quads all for personal use. There is no commercial use of the garage.
- The first floor has been used as an apartment whereby the applicant's brother and his partner were using it for past 4 years.

5.0 PLANNING AUTHORITY'S DECISION

Waterford City and County Council granted permission for retention of the garage subject to 3No. conditions.

1. The development shall be in accordance with the submitted drawings

2. The garage shall be used solely for purposes incidental to the main house, and not be used for habitable purposes.
3. The bathroom at first floor level shall be removed within two months.

6.0 APPEAL GROUNDS

6.1 The following is a summary of the grounds of appeal:

- The ridge height of 8metres completely contradicts the planner's requirements for a ridge height of 5.2metres.
- The elevation details do not comply with planning registration number 04/1494, this was not addressed in the assessment.
- The requirement to remove the bathroom at first floor level was over a long period. Therefore is the time frame exceeding the statute of limitations.
- The location of the septic tank was not addressed by the planning authority.
- In the original application, planning registration number 04/1494, it stated the site was underlain by an extremely vulnerable aquifer. Therefore why was the septic tank not inspected.
- The buildings are not positioned on the site as per the original permission.

7.0 RESPONSES

7.1 *Planning Authority*

The application for retention came on foot of a warning letter from the planning authority. There was no evidence of commercial activities within the garage. The applicant is a car enthusiast, however there was no evidence of commercial activities. There was allegations of the first floor been used as an apartment. A condition of the permission is that the bathroom be removed , and the garage be used as an ancillary to the main dwelling.

8.0 OBSERVATIONS

8.1 There were no observations received.

9.0 PLANNING HISTORY

9.1 04/1494

Permission granted for a dormer bungalow, garage, entrance and bio-cycle waste treatment plant (Outline Ref. 02/1062).

02/1062

Outline Permission for 2No. Dwellings granted to Michael Fogarty.

Adjacent site owned by the third party appellant's the Powers. They have a number of planning histories relating to their site.

09/510: Permission granted to Aaron power for a dormer dwelling (withdrawn)

15/217 : Aaron David Power – Refusal of a one and a half storey dwelling

15/372 : Dermot and Audrey Power – Retention of extension and field gate

10.0 PLANNING POLICY

The area is zoned in the Waterford County development Plan 2011-2017 as Agricultural.

11.0 ASSESSMENT

- 11.1 Under planning registration number 04/1494 the applicant obtained planning permission for a dormer bungalow on the subject site. Previous to this the site formed one of two sites granted Outline Permission to Mr. Michael Fogarty under reference **PD 02/1062**. I note from the planning histories the site is within a regionally important fissured aquifer where the groundwater is deemed to be extremely vulnerable to contamination. T-value calculated on the site in 2004 indicated rapid percolation rates. There were concerns about the number of septic tanks in close proximity and the addition of another treatment plant within the site.
- 11.2 Of particular note in the schedule of conditions relating to the parent permission, **PD 04/1494**, is condition No. 8, expressing concern concerning the proposed domestic garage which is the subject of this appeal.

Condition 8 of PD04/1494

The garage shall be used solely for purposes incidental to the enjoyment of the dwelling. It shall not be used for habitable purposes, housing of animals, commercial purposes. The ablution facilities shall be removed from the proposed garage.

The ridge height of the garage shall not exceed 5.2metres and external finishes of the garage shall match those on the existing dwelling in both texture and colour.

- 11.2 The subject garage, as constructed, demonstrates a flagrant disregard for this condition and the planning permission. The applicant had originally proposed a 8metre ridge height, however the constructed garage is 7.6metres. The garage resembles an additional dwelling on the site, and it has been used as living accommodation by the applicant's brother on first floor. I was not allowed access to the first floor on the day of my inspection, but there were curtains in the windows, and I would assume it is still in residential use. The ground floor includes a garage, which by all appearances resembles a car repair workshop. The number of tools, the lifts, the number of vehicles (10 in total on the day of my inspection and one campervan), the number of tyre piles, skips, etc, does not equate to a

'domestic' 'hobby' garage. I also note from the photographs on the planning file during the reporting officers inspection, the cars parked on site at that time differ to the cars parked on site during my inspection.

- 11.3 It is beyond the remit of the Board to investigate enforcement issues, however based on my visual assessment of the use of the garage it is clearly not as indicated in the planning documentation. I am surprised the planning authority took such a relaxed approach to the retention application, granting permission for the subject garage with less restrictive conditions based on the applicant's clear and blatant disregard for the conditions attached to the parent permission.
- 11.4 Having regard to the proximity of the adjoining dwelling to the south and the clear views into the subject site from the neighbouring property, and having regard to the fact the site is located within a regionally important fissured aquifer where the groundwater is deemed to be extremely vulnerable to contamination and T-value calculated on the site in 2004 indicated rapid percolation rates, there is potential for contamination and pollution. The treatment system on the subject site was designed to cater for one dwelling unit and not two dwelling units. There is a multiplicity of individual treatment systems and septic tanks within 250metres of the subject site. The existing situation on the subject site in terms of the treatment plant capacity is unacceptable. Furthermore, the number of cars parked on site, and the content of the garage would clearly indicate commercial use of the premises, and potential for contamination of ground waters from oil leakages, and other contaminants. Furthermore given the proximity of neighbouring dwellings and their aspect and orientation towards the subject garage, the existing use and parking of vehicles is unacceptable and would seriously injure residential amenities in terms of noise and nuisance.
- 11.5 The original permission, PD 04/1494 , Condition 8(b) clearly and unambiguously stated the ridge height of the garage should not exceed 5.2metres. Yet the existing garage has a ridge height of 7.6metres, includes dormer windows, a first floor, a number of first floor windows, a stair case and a bathroom. This is a wholly unacceptable diversion from the parent permission within a rural area, and demonstrates a total disregard for the planning process by the applicant.

12.0 RECOMMENDATION

I recommend the permission be refused for the development.

REASONS AND CONSIDERATIONS

1. The development by reason of its height, design and use, contravenes materially a condition attached to the original permission for the development , namely Condition **No. 8** of planning registration number **PD 04/1494**, and is therefore contrary to the proper planning and sustainable development of the area.

2. On the basis of submissions made in connection with the planning application and the appeal, and general observations on site, it appears to the Board the use of the structure may not be as described in the submission documents, and may in fact be unauthorised. Accordingly it is considered it would be inappropriate for the Board to consider a grant of permission for the development under such circumstances.

3. Having regard to the underlying regionally important fissured aquifer where the groundwater is deemed to be extremely vulnerable to contamination and the T-value calculated on the site relating to the original permission, planning registration number, PD04/1494, which indicated rapid percolation rates, the Board is not satisfied the existing development on the site can be treated satisfactorily, the development would, therefore be, prejudicial to public health.

Caryn Coogan

Planning Inspector

03/08/2016