



An
Bord
Pleanála

Inspector's Report PL10.247440

Development	Permission to retain and complete a domestic garage
Location	Ashbourne, Kilmurry, Slieverue, Co Kilkenny.
Planning Authority	Kilkenny County Council.
Planning Authority Reg. Ref.	16/423.
Applicant(s)	Jeremiah Forrest.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party v Permission
Appellant(s)	Teresa Nolan
Observer(s)	None
Date of Site Inspection	17 th January 2017
Inspector	Brid Maxwell

1.0 Site Location and Description

1.1. The appeal site has a stated area of 0.31 hectares comprises an established residential site located within to the southwest of the Kilkenny village of Slieverue which lies approximately 3 kilometres to the north east of Waterford City. The site is occupied a dwelling also previously used for bed and breakfast purposes and a number of outbuildings and agricultural structures. The structure proposed for retention and completion is located within a grove of evergreen trees to the rear of the dwelling. Two vehicular access points are provided to the site from the public road. There is a cul de sac serving three dwellings which back onto the site to the east and an individual dwelling to the west. The *Cemex* readimix plant is located approximately 100m to the east of the appeal site.

2.0 Proposed Development

2.1. The application involves permission for retention and completion of a domestic garage. The structure has a stated area of 116 sq, m and a height of 5.6m. Retention is sought for the foundations, base floor slab, 1.2m high walls and steel framing. Permission is sought to complete the structure by way of installation of roof cladding side sheeting roller door, gutters and downpipes. Surface water disposal is proposed by way of soakpits. Proposed roof and side cladding is to be goose wing grey in colour. It is stated that the structure is intended solely for the purpose of storage of vintage cars and tractors.

3.0 Planning Authority Decision

3.1. Decision

Following a request for additional information seeking a demonstration of need, soil infiltration tests, screening proposals mitigation of residential amenity impact, the Planning Authority decided to grant permission and 6 conditions were attached including the following:

- Condition 2. Development Contribution €1,740

- Condition 3. Domestic garage to be used for purposes incidental to the residential enjoyment of the dwelling and for storage of vehicles and not for habitable purposes, the housing of animals or commercial purposes.
- Condition 4. Stormwater to be disposed to soakaway and no discharge to third party lands.
- Condition 5. Landscaping do include hedgerow planted continuously in a double row along the eastern boundary of the site.
- Condition 6. All oxidisable and galvanised steel surfaces to be painted in a grey colour or matt olive green. All painting to be maintained and renewed as necessary.

3.2. Planning Authority Reports

3.2.1. Environment Section initial report requested further information in respect of stormwater disposal and noise. Final report indicated no objection subject to conditions.

3.2.2. Planner's report recommends permission subject to conditions.

3.3. Third Party Observations

Submission from Peter Thomson, Planning Solutions on behalf of Teresa Nolan who lives immediately adjacent to the northeast of the site who objects referring to the retrospective nature of the application and removal of trees. Proposed structure is out of scale in a residential area and results in an overbearing impact on the adjacent dwelling. Surface water run-off, noise impact.

4.0 Planning History

- P16/2587 Invalid
- ENF 16018 Warning Letter in respect of unauthorised works on the site.

5.0 Policy Context

5.1 Development Plan

The Kilkenny County Development Plan 2014-2020 and Ferrybank - Belview Local Area Plan 2009 refer. The site is zoned "Milepost Infill" within the Ferrybank - Belview Local Area Plan 2009. This allows for residential development to allow for consolidation of existing village form.

5.2 Natural Heritage Designations

The Lower River Suir SAC Site Code 002137 is within 3km of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Peter Thomson, Planning Solutions on behalf of Teresa Nolan who lives in the adjacent dwelling to the east of the appeal site. Grounds of appeal are summarised as follows:

- Applicant had alternative options to site the structure away from the appellant's dwelling.
- Loss of trees to facilitate the construction reduce residential amenity.
- Board is requested to consider the proposal on the basis of the pre-unauthorised works situation.
- Garage structure is industrial / agricultural in appearance and significantly detracts from the appellant's outlook and residential amenity.
- Need for a building of the scale proposed is questioned.

- Use of the house for bed and breakfast purposes combined with farming and collecting and storing vintage vehicles and machinery hobby will have an adverse impact on neighbours. Ancillary uses are disproportionate to main use of the dwelling.
- Scale of proposed shed is far in excess of a regular domestic garage.
- Proposed laurel hedging difficult and presents a maintenance challenge.
- Existing waterlogging from the appellant's site will be exacerbated.
- Note comparable application in relation to site at Mullinavat refused by the Council and upheld by An Bord Pleanála on appeal PL10.226736.

6.2. First Party Response

6.2.1 The First Party response to the appeal is summarised as follows:

- Works commenced on garage in error as the applicant was unfamiliar with planning regulations.
- Alternative locations on farmholding are impractical.
- Notably a temporary structure pre-existed the garage.
- Proposed hedging will ensure continuous landscaping along the common boundary and the first party is open to an alternative landscaping proposal.
- Soil tests demonstrate that drainage can be addressed on site without impact on adjacent property.

6.3. Planning Authority Response

6.3.1 The Planning Authority did not respond to the appeal.

7.0 ASSESSMENT

- 7.1 From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the key focus for assessment relates to the use of the garage and its visual impact and impact on the residential and other amenities of the area.
- 7.2 The size of the garage proposed for retention and completion 116 sq.m and height of 5.6m is clearly considerably larger than an average sized domestic garage. Notably Schedule 2 Part 1 Class 3 of the Planning and Development Regulations 2001 provides that a structure of 25sq.m and height less than 3m is exempted development subject to certain conditions and limitations. I consider notwithstanding its substantial size the structure proposed for retention and completion can be assimilated into the landscape having regard to its siting to the rear of the dwelling and to the established and potential landscaping and screen planting. The most significant current visual impact is that from the east the location of the appellant's dwelling. I consider that this impact can be mitigated by appropriate screen planting and I would tend to concur with the third party appellant that a laurel hedge is not the most suitable species having regard to potential maintenance issues. I would recommend indigenous species, holly, hawthorn or beech.
- 7.3 The application outlines that the structure is intended for the purposes of facilitating the hobby of the First Party in regard to vintage vehicles. I consider that subject to this use the proposal will not give rise to undue impact on amenity in terms of noise or other impacts. The issue of surface water disposal can be appropriately addressed by way of suitable soakpit design and construction. As regards the issue of precedent cited by the third party appellant referring to appeal case at Mullinavat (PL10.226738) I note in that case the structure was located forward of the building line of the dwelling and given the differing circumstances is therefore not directly comparable with the current appeal case. In any case it is appropriate that the current file be assessed on its own merit. I conclude that having regard to the size of the site, scale and proposed use of the structure and subject to further screen planting the development proposed for retention and completion would not seriously

injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

- 7.4 As regards the issue of Appropriate Assessment having regard to the nature and scale of the proposed development and nature of the receiving environment and 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.

REASONS AND CONSIDERATIONS

Having regard to the pattern of development in the area, the design and nature of the works proposed for retention and completion, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention and completion would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

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

Reason: In the interest of clarity.

2. The garage shall be used for purposes ancillary to the enjoyment of the dwellinghouse as such.

Reason: In the interest of residential amenity.

3. The landscaping of the development shall incorporate a continuous hedge of indigenous species eg holly, hawthorn or beech which shall be planted along the eastern boundary. The hedge shall be planted within the first planting season following grant of permission.

Reason: In the interest of residential and visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

6. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of traffic safety.

7. 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. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Bríd Maxwell,
Planning Inspector
20th January 2017