



An  
Bord  
Pleanála

## Inspector's Report PL03.248187.

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<b>Development</b>	Roof height increase and garage extension with additional windows, doors and chimney.
<b>Location</b>	Ardnataggle, O'Briensbridge, Co. Clare.
<b>Planning Authority</b>	Clare County Council.
<b>Planning Authority Reg. Ref.</b>	P16/999.
<b>Applicant(s)</b>	Alan Conlon.
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Alan Conlon.
<b>Observer(s)</b>	Eleanor Curtin.
<b>Date of Site Inspection</b>	16 <sup>th</sup> of May 2017
<b>Inspector</b>	Karen Hamilton.

## 1.0 Site Location and Description

- 1.1. The site is located within a rural area to the west of O' Briensbridge, north County Clare and is accessed off a local road alongside a family dwelling via a recently constructed private laneway. The surrounding area is characterised by one-off housing and the site runs along the rear gardens of one of these dwellings
- 1.2. The site is 0.31ha and contains a recently constructed garage/ dwelling, (subject to retention), foundations of a dwelling and a septic tank granted under Reg Ref. 09/690.

## 2.0 Proposed Development

- 2.1. The proposed development includes the retention of alterations to a garage and may be summarised as follows:
  - Increase in the height of the floor area of approved garage (Reg. Ref 09.690) by 20.6m<sup>2</sup>,
  - Change of garage door to u PVC patio door,
  - Increase in height of garage by 700mm, inclusion of a chimney and 2 skylights,
  - Inclusion of 2 additional windows along the south west elevation and relocation of door,
  - Inclusion of an additional window on the north east elevation.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to refuse permission as the unit appears as a dwelling and is inappropriate in its setting, location and design and would set an undesirable precedent for similar backland development.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and refers to the appearance of the proposed unit as a dwelling and increased pressure on services based on an additional dwelling.

#### 3.2.2. Other Technical Reports

None.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observation**

One submission was received from an adjoining land owner and refers to the use of the garage as a dwelling, the treatment of effluent, the inclusion of a chimney and overlooking from the proposed window along the north eastern elevation.

## 4.0 **Planning History**

### **UD16-00113**

Warning letter in relation to the unauthorised construction of a dwelling house.

### **14/571**

Permission granted for an extension of duration for Reg. Ref 09/690 for dwelling house, garage, entrance and associated works. The date for expiring is 16/10/2017.

### **09/690**

Permission granted for new dwelling, garage, entrance and associated works. Condition No 2 included an occupancy condition for seven years and Condition No 14 restricted the use of the garage so it could not be used for human habitation.

In front of site for applicant's daughter

### **04/2266**

Permission granted for demolition of a barn and construction of a new two storey dwelling, detached single storey garage and associated works.

## 5.0 Policy Context

### 5.1. County Clare Development Plan 2017-2023

The site is identified as an area “*Rural Area Under Strong Urban Pressure*”

**CDP 3.11:** New houses in the Countryside within “Areas of Special Control”

It is an objective of the Development Plan:

a) In the parts of the countryside within the ‘Areas of Special Control’ i.e.:

- Areas under Strong Urban Pressure (See chapter 17)
- Heritage Landscapes (See Chapter 13)
- Sites accessed from Scenic Routes (See Chapter 13 and Appendix 5)

To permit a new single house for the permanent occupation of an applicant who falls within one of the Categories A or B or C below and meets the necessary criteria.

- A: Local Rural Persons
- B: Persons working in full time or Part-time in Rural Areas
- C: Exceptional Health and/or Family Circumstances.

**Chapter 17** – Design and the Built Environment: Section 17.4.5 Rural Design

### 5.2. Natural Heritage Designations

The site is located 387m from the edge of the Lower River Shannon SAC.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are submitted from an agent on behalf of the applicant and may be summarised as follows:

- The applicant's daughter is moving into the main house and the garage will only be used as living space during the day, therefore the proposal should be assessed as alterations to a garage, incidental to the main residence.
- The site is 0.31ha in size and the garage is 20.6m<sup>2</sup>, therefore there is no overdevelopment on the site.
- The development granted P09.690 is extended (14/571) until 16/10/2017.

### 6.2. Planning Authority Response

None received.

### 6.3. Observations

One observation was received from the adjoining land owner which may be summarised as follows:

- The applicant's submission is incorrect and the proposed garage is closer to the dwelling by approx. 2m.
- The internal and external appearance of the unit indicate a dwelling as it has a frosted window, chimney, fittings for cooker and kitchen.
- The proposed development has a negative impact on the residential amenity due to overlooking and overshadowing.

## 7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of development
- Residential Amenity

- Visual Amenity
- Waste Water
- Appropriate Assessment

### **Principle of development.**

- 7.2. The development description of the proposed development refers to an increase in the height (0.6m), ground floor space (20m<sup>2</sup>), and external alterations to a garage. The building was permitted as a garage, ancillary to a two storey dwelling (Reg. Ref 09/690) where the applicant qualified for local needs in the development plan rural housing policy as a returning emigrant. Condition No 2 restricted occupation of the main dwelling to the applicant and the grounds of appeal states the garage will only be used for habitable accommodation during the day and permanent accommodation with the applicant's daughter in the main dwelling. The proposed development does not include any amendment to condition No 2, occupancy of the main dwelling, therefore this cannot be considered reasonable and the applicant's daughter must be assessed against the development plan criteria (Policy CDP 3.11).
- 7.3. Condition No 14 of the parent permission restricted the use of the garage, ancillary to the main dwelling, and not to be used for human habitation. The building to be retained has the appearance of a dwelling with double doors instead of the garage doors, inlet for a stove connecting to a chimney and obscure window along the eastern elevation, the internal fit out has not been completed. Therefore, I consider the building has been designed and intended for use as habitable accommodation.
- 7.4. Therefore, based on the design of the building to be retained, the information in the grounds of appeal and the conditions of Reg. Ref 09/690 I do not consider the principle of the development acceptable at this location.

### **Residential Amenity**

- 7.5. The proposed development is 0.6m higher and located approx. 2m closer to the observer's property to the north of the site and they argue the amended location and increase in height will have a negative impact on their residential amenity, cause overshadowing, and an additional window along the north east elevation will cause overlooking. In addition, the observer notes the garage may be used as a dwelling, therefore the location of services such as the boiler and septic tank are unclear and

have the potential to have a negative impact on the residential amenity. I have previously addressed the principle of use and will address the impact on the residential amenity of both the adjoining dwellings and the proposed dwelling (Reg Ref 09.690).

- 7.6. Existing dwellings: The surrounding sites are substantial rural sites containing one off dwellings. The building to be retained is located 2m closer to the northern boundary which includes a row of mature trees along both the subject site and the adjoining resident's site. The proposed development includes a small obscure window along the northern elevation. Based on the existing boundary, design and scale of the proposed development and the location from the dwelling to the north, I do not consider it would have a negative impact on the existing residential amenity of that property to the north.
- 7.7. Proposed dwelling: The proposed development is located 5m from the edge of the foundations of the main dwelling are present on site. The applicant submits the dwelling will be occupied by his daughter who currently resides in the farmhouse at the bottom of the lane. The proposed development does not include details of open space, car parking or connection to the septic tank. Therefore, based on the location of two dwellings on the site, I consider the proposal overdevelopment of the site which has a serious negative impact on the residential amenity of the main dwelling permitted in Reg. Ref 09.690.

### **Visual Amenity**

- 7.8. The proposed development includes alterations to a permitted garage, although as previously stated the design and appearance of the building for retention is a dwelling. I note the development plan does not include specific design criteria for rural dwellings although I consider the inclusion of a patio door in the front elevation, and the timber cladding on the upper floor, is not in keeping with the design of the main dwelling or those dwellings in the vicinity. In addition, I consider the cumulative impact of an additional dwelling in this backland rural location, which is already under strong urban pressure, has a negative impact on the pattern of development in the vicinity.

7.9. Therefore, based on the design of the proposed development I consider the proposed development has a serious negative impact on the rural character in the vicinity.

### **Waste Water**

7.10. The submitted plans and particulars include a ground floor area of 56m<sup>2</sup> for retention and I note the windows on the upper floor and existing beams with an opening for access provides a potential for additional upper floor space. The plans do not include any connection to the current waste water treatment system on the site nor has any information been submitted on additional loading onto the septic tank and I noted upon site inspection the septic tank has been installed. In the absence of information relating to the use of any proposed bathroom or kitchen and the connection to the sewerage treatment system, I do not consider a full assessment of the impact of the proposed development can be undertaken and therefore I consider there is a negative impact of the proposed development on the public health.

### **Appropriate Assessment**

- 7.11. The site is located 380m from the edge of the Lower River Shannon SAC (002165) of which many of the sites features of interest are linked to good water quality. The proposed development includes the retention of a habitable dwelling, where no details of the existing wastewater treatment system have been submitted. The site is surrounded by one- off dwellings in an area. I note the site is located on a locally important aquifer and within an area where the ground water has high vulnerability.
- 7.12. Based on the cumulative impact of one-off dwellings in the vicinity, the additional loading onto an inappropriately designed wastewater treatment system and the location of the site from a European site, I consider the proposed development could potentially have a significant negative impact on the hydrological support system of Lower River Shannon SAC (002165).

## **8.0 Recommendation**

8.1. It is recommended that the proposed development is refused for the reasons and considerations as set out below.



## 9.0 Reasons and Considerations

1. The site of the proposed development is located within a ' Rural Area under Strong Urban Pressure' as set out in the current Development Plan for the area, where it is a key objective to only facilitate genuine housing requirements of the local rural community. Having regard to the current permitted dwelling on the site, the existing proliferation of one-off dwellings in the vicinity and the backland location of the site, the proposed development would have a serious negative impact on the residential amenity, would militate against the preservation of the rural environment and would set an undesirable precedent for other such overdevelopment in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information provided with the application and appeal, in particular the use of the building as a dwelling and the absence of information on a connection to a wastewater treatment system, the Board is not satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Lower Shannon SAC, or any other Natura 2000 site. In such circumstances the Board is precluded from granting permission.

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Karen Hamilton  
Planning Inspector

02<sup>nd</sup> of June 2017