



An
Bord
Pleanála

Inspector's Report ABP-300324-17

Development	Retain and complete domestic garage/utility store as constructed at the rear of dwelling house.
Location	Islandganniv North (No. 18 Ashfield) Greenville, Listowel, Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	17/504.
Applicant(s)	Tom McNamara.
Type of Application	Retention Permission
Planning Authority Decision	Refuse Retention.
Type of Appeal	First Party
Appellant(s)	Tom McNamara
Observer(s)	Mary Thornton.
Date of Site Inspection	7 th May 2017
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1. The appeal site (of stated 0.101ha) No. 18 Ashfield is located on the western side of Listowel town, in County Kerry, within the existing housing estate of Ashfield. The Ashfield Estate is access off Greenville Road from the south.
- 1.2. The appeal site hosts a brick faced dormer style dwelling, with a new double height extension constructed to its rear. The dwelling is set back from the road boundary, demarcated by way of a low boundary wall with piers. It has a generous front garden with a drive way and hard standing for car parking to its front.
- 1.3. The building / 'domestic garage / utility store' the subject of the retention application comprises a detached structure, under construction, substantially built, to the rear (north east) of the dwelling house. The building is constructed within 0.680 m of the rear / northern party boundary wall and within 0.830m of the eastern party boundary wall. The rear garden of No 31 Ashfield, a bungalow, directly opposes the subject appeal site to its north.
- 1.4. The site is surrounded to its north, east and west by similar large scaled detached dwellings. No. 17 adjoining to the east comprises a dormer dwelling while no. 19 adjoining to the west is single storey. In the main the low density Ashfield estate comprises large dormer detached dwellings.
- 1.5. The site is accessed via a cul de sac access located to the south.

2.0 Proposed Development

- 2.1. The proposal comprises:
 - Retain and complete domestic garage/utility store as constructed at the rear of dwelling house. (GFA stated as 74.24 sq. m)
 - The ground floor of the garage is indicated as 37.12 sq. m
 - The first floor utility store is also indicated as 37.12 sq. m
 - The structure has a projecting dormer window to its western roof elevation
 - A first floor window on the southern elevation
 - Two velux roof lights on the eastern elevation

- A large glazed opening at ground floor on the south elevation and
- A small side entrance door from the western gable

3.0 Planning Authority Decision

3.1. Decision

Following a request for further information with respect to:

1. Reason for development in the absence of planning permission.
2. Potential overshadowing of adjoining properties
3. Concern as to the proposed use of the structure as a dwelling unit

Permission was refused for the following reasons:

1. It is considered that the proposed garage/utility store by reason of design, height and scale and proximity to houses in the vicinity would not integrate satisfactory into the surrounding area and would seriously injure the amenities and depreciate the value of property in the vicinity by reason of over-looking. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planners Report considers the structure 'out of place' within the curtilage of the existing dwelling and within the housing estate by reason of scale and height. It is considered that the structure would be injurious to residential amenity by reason of overlooking.

3.2.2. Other Technical Reports:

Kerry National Road Design Office (KNRDO): No observations

Roads Department: No comment

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

Seven objections were received by the planning authority. Issues raised are similar to those raised in the observation submitted, which is summarised in detail below.

4.0 **Planning History**

4.1. **Reg. Ref. 15/311** Permission granted to erect a dormer type extension to the rear of dwelling house consisting of a dining area at ground floor level and 2 no. en-suites at first floor level and all associated site works

4.2. **Reg. Ref. 07/404059** On the 1st October 2007, Listowel Town Council issued a grant of permission to erect a garage/utility store (37.12 sq. m) at the rear of 18 Ashfield, Greenville, Listowel, Co. Kerry. The permission was not taken up during its life term.

4.3. **Reg. Ref. 04/404088** Retention permission granted to retain first floor gable window.

4.4. **Reg. Ref. 02/402007** Retention permission granted to retain dormer extension.

5.0 **Policy Context**

5.1.1. **Development Plan**

The site is governed by the policies and provisions contained in the Kerry County Development Plan 2015-2021. The site is located within the town boundary for Listowel as determined by the Listowel Town Development Plan 2009 – 2015. The appeal site is located on lands zoned existing residential.

5.2. **Natural Heritage Designations**

None Relevant.

6.0 The Appeal

6.1. Grounds of Appeal

The issues raised are summarised as follows:

- The garage permitted in 2007 under Reg. Ref. 07/404059 had a permitted floor area of 37.12 sq. m. The footprint of the current application is also 37.12 sq. m
- The separation distance between the garage and the dwellings to the north is c. 20m which is close to the distance of 22m normally specified between opposing first floor windows.
- It is unreasonable to suggest that a blank gable with a height of 5.9m “would seriously injure the amenities and depreciate the value of property in the vicinity”.
- Note the planning authority's concerns regarding the first-floor windows and to address this the applicant would be willing to accept a condition requiring modification of the fenestration and ridge height to reflect that granted by Listowel Town Council in 2007. If this approach is acceptable, then the following modifications to fenestration would result and overlooking of adjacent properties would be eliminated.
 - Southern elevation - remove window at 1st floor
 - Western elevation -- remove window at 1st floor and replace with 2No. velux windows
 - Eastern elevation - remove 2 No. rooflights
- The applicant is willing to accept a condition to reduce the ridge height to a maximum height of 5m in line with that permitted under Reg. Ref. 07/404059.
- The Shadow Impact Assessment prepared by Arc Consultants concluded that the proposed development is not predicted to result in any undue adverse impacts on sunlight access to neighbouring properties.
- The garage/utility store is not intended for use as a residential dwelling and a condition in this regard is welcome.

- The site is zoned 'Residential' in the Listowel Town Development Plan 2009-2015 and accordingly a domestic garage would be a permitted in principle use.
- The applicant is resident in the UK and at the time of commencing works was unaware that permission is limited to a period of five years from the date of grant of permission, unless the period is extended. The works were carried out in good faith and in the absence of understanding the Irish planning system.
- Appeal Accompanied with:
 - Plans of domestic dwelling granted on foot of Reg. Ref. 07/404059
 - Shadow Impact Assessment for the garage to be retained, Oct 2017, Arc Architectural Consultants Ltd.

6.2. Planning Authority Response

No response received

6.3. Observation

The issues raised in the Observation are summarised as follows:

- The garage/utility/store /granny flat was constructed without any planning permission.
- Questionable that the applicant's builders would make the roof higher of their own accord.
- The original planning approved in 2007 had 1 block above the garage door, this building has 6 blocks above the garage door.
- The shadow impact study, by Arc, show that the garage does in fact have a huge impact on reducing the amount of light in the rear garden of 17 Ashfield, the observer's property, as per the survey in March and June.
- There is no planning precedent for this type of development in Ashfield.
- First floor windows will give rise to overlooking, in particular, loss of privacy to No. 17 Ashfield
- Negative impact to amenity of the Ashfield Estate

- Set a negative Precedent.
- Observation accompanied with:
 - Copy of F.I. Response submitted to the p.a.
 - Excerpt from first party appeal
 - Copy of email complaint to the p.a. raising concern with respect to the garage

7.0 Assessment

I consider the key issues in determining this appeal are as follows:

- **Impact Upon Residential and Visual Amenity**
- **Appropriate Assessment**

7.1. Impact Upon Residential and Visual Amenity

- 7.1.1. The proposal is for the retention and completion of a domestic garage / utility store as constructed at the rear of a detached dwelling house.
- 7.1.2. From information contained on the file it has been established that permission was granted, on the site, for a 37.12 sq. m single storey garage (6.4m x 5.8m) with a pitched roof of 5.0 m in height, incorporating 2 no. velux roof lights on the western roof slope, on foot of Reg. Ref. 07/404059. This development was not carried out. The grant of permission was subject to 8 conditions, the plans and drawings and grant of permission associated with the development is attached in a pouch to the rear of the file.
- 7.1.3. Inspectors Note: The plans and drawings of the garage, permitted under Reg. Ref. 07/404059 (date stamped by the p.a. on the 20.07.2007), submitted by the first party with the appeal and stated to have a scale of 1:50 are not to scale. However, measurements are indicated.
- 7.1.4. Under the current application permission is sought to complete and retain a double height garage of 74.24 sq. m, with a ridge height of 5.9 m, a dormer window on the

western elevation, first floor window on the south elevation and two velux roof lights on the eastern elevation.

- 7.1.5. There were a number of objections to the proposal by concerned neighbours. The planning authority refused retention permission for one number reason, namely, that the garage by reason of its design, height, scale and proximity to houses in the vicinity would seriously injure the amenities of the area and depreciate the value of property in the area by reason of overlooking.
- 7.1.6. The first party in their appeal to the Board submit that they are willing to accept a condition to reduce the ridge height to a maximum height of 5m in line with that permitted under Reg. Ref. 07/404059. Also, they are willing to remove the first-floor window from the southern elevation, replace the first-floor window on the western elevation with 2 number velux windows and remove the 2 number roof lights from the eastern elevation. It is submitted that the garage/utility store is not intended for use as a residential dwelling and a condition in this regard is welcome.
- 7.1.7. I note the concerns of the observer with respect to over shadowing, in particular, with respect to March and June evening times, given the orientation of the site and height of the structure proposed.
- 7.1.8. Note: The orientation of the garage is incorrect in the Shadow Impact Assessment submitted to the p.a. on the 10th October 2017, the roof pitch would in fact slope away from the eastern boundary with No. 17 and not gable onto same as detailed in the survey.
- 7.1.9. Given orientation I agree that No. 17 would be impacted most, in terms of overshadowing, post 5pm in June. However, given the error in the Shadow Impact Assessment, the reduction in height of the garage to 5m, its located to the rear of the garden and the planning history associated with the site I consider that a garage with a ridge height of 5m would be acceptable in terms of shadow impact upon the rear garden of no. 17 adjoining to the east. Incorporating, the amendments agreed, and reducing the height of the garage to 5m, the degree of overshadowing to No. 17 would not be of such material significance that permission should be refused, in this regard.
- 7.1.10. A reduction in height to 5m would effectively omit the first floor and given the amendments agreed by the first party, by way of omission of dormer and first floor

windows and repositioning of roof lights to the western elevation, only, I consider that the concern of overlooking can be overcome.

7.1.11. I recommend that should the Board agree with my recommendation to grant planning permission, subject to agreed amendments, that a condition be attached restricting the use of the garage for purposes incidental to the enjoyment of the dwelling house, only. In tandem with the use I recommend that the glazed entrance to the front elevation be replaced with roller shutter doors more akin to a domestic garage use. This can be satisfactorily dealt with by way of condition.

7.1.12. The reduction in height from 5.9m to 5.0m is in line with what was originally permitted on the site on foot of Reg. Ref. 07/404059. The first party has agreed to amend the garage / utility / store to 5.0 m and this can be dealt with by way of condition. Regard being had to the foregoing I consider that the amendments proposed, in particular, the reduction in height of the garage would be acceptable in terms of visual amenity and respecting the character of the area. It would also overcome the issue of negative precedent.

7.2. Appropriate Assessment

7.2.1. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

8.1. I recommend that retention planning permission should be Granted for the development subject to conditions.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the character and established pattern of development in the vicinity of the site, orientation of the site and amendments proposed by the first party to height and design, it is considered that, subject to compliance with the conditions set out below, the development to be retained and completed would not seriously injure the amenities of the area or of property in the vicinity. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained 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. The development to be retained and completed shall be amended as follows;
- (i) Reduction in the apex height to a maximum height of 5m in line with that permitted under Reg. Ref. 07/404059.
 - (ii) Omission of the first-floor utility store
 - (iii) Southern elevation - remove window at 1st floor
 - (iv) Southern elevation - replace glazed entrance doors with roller shutter door
 - (v) Western elevation - remove window at 1st floor and replace with 2 No. velux windows

(vi) Eastern elevation - remove 2 No. rooflights

Precise drawings and plans indicating the amendments shall be submitted and agreed in writing with the planning authority within 3 months of the grant of retention planning permission.

Reason: In the interest of visual and residential amenity.

3. The proposed garage and shed shall be used solely for purposes incidental to the enjoyment of the dwelling house and for no other reason and shall not be used for the carrying out of any trade, business or commercial activity.

Reason: In the interests of amenity and the proper planning and development of the area.

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

Reason: To ensure a proper standard of development.

5. External finishes to the proposed structure shall harmonise in colour and texture with those of the existing dwelling.

Reason: In the interest of visual amenity.

Fiona Fair
Planning Inspector

22.05. 2018