



An
Bord
Pleanála

Inspector's Report ABP-300604-18

Development

For the demolition of a building to the side of dwelling house and building works carried out to date and planning PERMISSION to complete the work of reconstructing the building as a garage along with all associated works

Location

Kevin Barry Avenue, Tulla Road,
Ennis, Co. Clare

Planning Authority

Clare County Council

Planning Authority Reg. Ref.

P17/597

Applicant(s)

David Tierney

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Elizabeth Keane

Observer(s)

None

Date of Site Inspection

17th April 2018

Inspector

Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Kevin Barry Avenue, close to the junction of Kevin Barry Avenue and Tulla Road. To the immediate north and south of the site are residential properties. On the opposite side of the road to the north-east is a retail unit.
- 1.2. On the site is a recently completed single storey dwelling house. To the rear of the dwelling house and accessed from the side is an area of concrete slab. The remainder of the site is gravelled over. At the time of my site visit there was one car parked at the north-western extent of the site.

2.0 Proposed Development

- 2.1. For the demolition of a building to the side of dwelling house and building works carried out to date and planning PERMISSION to complete the work of reconstructing the building as a garage along with all associated works.

3.0 Planning Authority Decision

3.1. Decision

Grant permission. Conditions of note are as follows:

Condition No. 4 – 2m high fence to be constructed along western boundary.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Points of note are as follows:

- Noted on site position of concrete slab differed from that shown on plans.
- Possible residential use can be restricted by way of condition.
- Loss of amenity can be alleviated by screening/planting.

- Further Information was requested on 26th September 2017 in relation to the following (i) location of the existing concrete slab proposed to be retained (ii) site location plan showing location of garage structure (iii) plans showing relationship of garage structure with neighbouring properties (iv) clarify purpose of pipes protruding above concrete slab.
- Further Information was received on 8th November 2017. This showed the location of the concrete slab and proposed garage. It was also proposed to clad the south elevation of the garage in timber, in order to mitigate the visual impact of the structure. It was stated that the protruding pipes were for electrical connections from the house to the proposed garage.
- Recommendation to grant.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One third party submission was received raising the following issues:

- Appearance does not resemble a conventional garage.
- Has 3 doors, 2 windows/no windows overlooking applicant's property.
- Garage is extensively plumbed.
- Complex planning history on this site/Enforcement history on site.
- Impact on privacy.
- Proper garage door should be installed.
- Request condition be applied that it should not be used as a dwelling.
- Use of the large area of the land to the rear of the site.

4.0 Planning History

16/45- Grant – Change of use from commercial to residential/alterations/retention for works to the rear.

0621057 (Previous Ennis Town Council Ref 06/57) -- for development which will consist of (1) the demolition of two existing single storey apartment buildings, comprising of four no. apartments. (2) The construction of five no. apartments in two separate blocks, including ancillary site works and connection to public services.

This was a Split Decision as follows:

Grant - "PERMISSION for (1) the demolition of the two existing single storey apartment buildings comprising of 4 no. apartments. (2) The construction of 3 no. apartments to the front of the site in one block.

Refuse - PERMISSION for two apartment units no's 4 and 5 to the rear of the site.

5.0 Policy Context

5.1. Development Plan

Clare County Development Plan 2017-2023

Volume 3 - 3a provides the Written Statement & Settlement Plans for Ennis Municipal District.

The site is located within an area zoned for Existing Residential which seeks:

- To conserve and enhance the quality and character of the areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the immediate area and uses that enhance existing residential communities. Existing residential zoned land may also provide for small-scale home-based employment uses where the primary residential use will be maintained.

Appendix 1 contains the Development Management Guidelines

5.2. Natural Heritage Designations

- 5.2.1. The site is located approximately 200m west of the Lower River Shannon SAC.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Grounds of Appeal, as submitted by the Third Party, are summarised below;

- Position and scale of the building are misrepresented to minimise the harm to residential amenity.
- Vehicular access has been significantly altered with impacts on privacy and road safety.
- Planning Authority has not considered the alteration of the vehicular access to the site which was the sole purpose of re-locating the original building.
- Moving of the shed has allowed access for up to ten cars to the rear of appellant's property.
- Level of the site has been raised by over a metre so any screening will result in blocking of light.
- Site has been hard parked and in-filled by over a metre allowing for parking of up to 10 cars.
- Site in question has a complex history – previously proposed for apartments.
- Nothing to stop the garage being used for residential – sewer pipes have been laid.
- Will impact on amenities of appellant's property.
- 7 No. Appendices included with submission including, but not limited to, historical and current photographs.

6.2. Applicant Response

6.2.1. None.

6.3. Planning Authority Response

- Further information was sought in relation to the exact position of the structure

- Condition No. 4 requires a fence not greater than 2m in height above ground level of the appellant's property

6.4. **Observations**

6.4.1. None

6.5. **Further Responses**

6.5.1. None

7.0 **Assessment**

7.1.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of the proposed development.
- Residential Amenity.
- Design and Visual Amenity Impact.
- Transport Issues
- Appropriate Assessment.

7.2. **Principle of Development**

7.2.1. There is no objection in principle to a replacement garage, subject to the considerations below. In relation to the potential use of the garage as a residential unit, or as a commercial unit, I consider that this matter can be controlled by a condition restricting the residential or commercial use of the garage.

7.3. **Residential Amenity**

7.3.1. The appellant has raised concerns in relation to the impact of the proposed development on their residential amenities. I note that the garage is replacing a previous structure on the site. The position of the proposed garage has shifted in a westwards direction so it now is closer to the boundary of the appellant's property.

The height of the garage is also approximately 0.3m higher than the previous structure, and it now has an overall height of 3.3m.

- 7.3.2. Having regard to the position of the proposed garage, as shown on the submitted plans, I do not consider there will be an adverse impact on the amenities of the appellant, having regard to loss of outlook, loss of daylight or sunlight or loss of privacy. While I note there is a window on the western elevation of the garage, this does not face directly towards the appellant's property. In addition, a condition can be imposed restricting the residential or commercial use of the garage. Furthermore, a condition can be imposed requiring fencing on the southern boundary of the site, between the appeal site and the appellant's property.
- 7.3.3. I note, however, that the position of the concrete slab, does not tally with the submitted plans, and the slab extends further westwards along the appellant's boundary than is shown on the plans. This is highlighted in the appellant's submission. However conditions attached to any permission will require the structure to be completed in accordance with the plans and particulars submitted with the application, and submitted at further information stage.

7.4. Design and Visual Amenity Impact.

- 7.4.1. The scale and appearance of the garage is appropriate. While it is larger than that which previously existing, the proposed scale as detailed on the plans is acceptable and is subservient to the existing dwelling with only a limited visual impact on surrounding properties. I again note the discrepancy on the plans, as opposed to what is actually on the site. As noted above however, any permission will require the structure to be completed in accordance with the plans and particulars submitted.

7.5. Transport Issues

- 7.5.1. The issue of the widening of the vehicular access, and subsequent impact on road safety, has been raised by the appellant. However this appeal does not relate to widening the access from the road and I cannot comment on same. However the impact of removing the original garage and constructing a replacement could potentially allow for parking to the rear. However this current appeal solely relates to the proposed garage. In relation to the issue of car parking, and the concerns of the appellant's in relation to the potential numbers of cars being parked on the site, I noted on site that there was only one car parked on the site. However, any existing

or future breach of planning control in relation to the use of the site is a matter for the enforcement section of the planning authority. In this respect regard is had to Section 10.1 of the Development Management Guidelines 2007 which provides:

Enforcement of planning control is the responsibility of the planning authority and this is the case, of course, whether the planning decision, including conditions, was made by the planning authority or the Board.

- 7.5.2. I note there is a barrier in place to the south-east of the access which has the effect of slowing down the speed of vehicles which are travelling north past the appeal site. The garage itself, used for a purpose incidental to the existing dwelling house, does not have potential to generate materially significant uplift in traffic movements to and from the site.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the small scale and nature of the proposed development and the separation distance to the nearest European site (c200m), 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 the conservation objectives of any European site.

8.0 **Recommendation**

- 8.1. I recommend that planning permission should be granted subject to conditions, as set out below.

9.0 **Reasons and Considerations**

Having regard to the pattern of development in the vicinity, the previously existing garage on the site, and the policies of the current Clare County Development Plan 2017-2023, it is considered that the proposed development would not seriously injure the visual or residential amenity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 8th November 2017, 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 interests of clarity.

2. External finishes of the permitted development shall be in accordance with those indicated on the plans and particulars received by the planning authority on the 3rd August 2017, and as amended by the plans and particulars received by the planning authority on the 8th November 2017.

Reason: In the interest of visual amenity.

3. 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 order to prevent pollution.

4. A concrete post and timber panel fence should be erected entirely within the developer's property, along the boundary with the property to the south, from the south-western corner of the proposed garage as far as the western boundary of the developer's property, i.e. from "A" to "B" as shown on the site layout plan submitted on the 8th November 2017. The fence shall extend no more than 2m in height above existing ground levels on the southern side of the property boundary.

Reason: To preserve the residential amenities of neighbouring properties.

5. The proposed garage shall not be used for human habitation, or any

commercial activity or for any other purpose, other than a purpose incidental to the enjoyment of the dwelling.

Reason: In the interest of residential amenity and the orderly development of the area.

Rónán O'Connor
Planning Inspector

11th May 2018