



An  
Bord  
Pleanála

## Inspector's Report 302811-18

---

<b>Development</b>	Retention of single storey detached building with mezzanine floor to rear of house as garage, utility area and toilet at ground floor level.
<b>Location</b>	Piercetown, Dunboyne, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	RA180861
<b>Applicant(s)</b>	Gerardo Kelly
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party Appeal
<b>Appellant(s)</b>	PJ and Maura Cantwell
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	1 December 2018
<b>Inspector</b>	Joanna Kelly

## 1.0 Site Location and Description

- 1.1. The site has a stated site area of .426ha and the structure to be retained has a stated floor area of 105sq.m. The site which contains a detached one off dwelling, is located along the R-155 (Fairycastle Road) in the townland of Piercetown, Dunboyne, Co. Meath. The existing structure is located along the north-east corner of the site. The structure has the appearance of a granny flat rather than a garage. There are no garage openings.
- 1.2. Pursuant to inspection, it is noted that there is a fitted kitchen at ground floor level with a stove. There is a flue which has not been indicated on the elevational plans. Access to the structure is via the existing access serving the dwelling house on site. There is an agricultural lane located along the northern boundary. There is a timber post and rail fence and wire/electric fence located along this northern boundary. The site itself has limited landscaping. The site is served by an existing well and proprietary treatment plant.

## 2.0 Proposed Development

The applicant is seeking to retain the existing structure on site. The structure is described as a single storey structure with a mezzanine level with a utility area and toilet at ground floor level. It is also proposed to have a domestic office/storage at mezzanine level for ancillary private use by the occupants of the main dwelling.

The plans on file indicate that the overall height of the structure is c. 5.4m and a floor area of 105sq.m. There is an existing domestic door on the southern elevation with windows on the other three elevations.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority granted permission for the proposed development subject to 4 conditions.

Condition 2 requires that the mezzanine floor area is used for storage purposes only and shall not be used as an office or for any other habitable use.

Condition 3 requires alterations to be carried out within three months of the final grant of permission including decommissioning of the stove and flue, removal of shower and provision of garage door to the western elevation.

Condition 4 requires the submission of drawings indicating a proposal for removal of the stud wall and doorway serving the storage area at mezzanine level.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

The report notes 1 no. submission which raised issues regarding use of structure as a residential unit; connection to existing waste water treatment plant; size of the structure; traffic implications; upgrading of laneway to side of the structure; effects on

adjoining residential property and devaluation; creation of precedent of backland development.

With regard to the mezzanine level it is set out that this area is not suitable for use as office as floor to ceiling height is less than 2.4m and should be used as storage space only.

A warning letter issued regarding the use of the structure as a residential unit. The applicant applied for retention permission under planning ref. RA180301 which was refused. The applicant is now proposing to remove 2 windows on the western elevation and to replace them with a garage door. On completion of the proposed works is it considered that the structure will resemble a structure which is ancillary to that of the main dwelling house.

The planner recommended a grant of permission.

3.2.2. Other Technical Reports:

None noted

## 4.0 Planning History

**File Ref. No. DA70507** Permission granted to demolish existing dwelling and domestic sheds and replace with dwelling unit and garage.

**File Ref. 120548** Extension of duration granted to Denise North in respect of DA70507.

**UD17138** Warning letter issued regarding unauthorised development in respect of the structure now sought to be retained.

**RA180301** Permission refused for retention of single storey detached building comprising games room, utility room, with shower and toilet at ground floor level, and home office and storage at mezzanine level for ancillary use to main dwelling with all services connected to the existing dwelling together.

## 5.0 Policy Context

### 5.1. Development Plan

Meath County Development Plan 2013-2019 is the statutory plan for the area. Section 11.2.4 provides details in respect of development standards for domestic extensions.

### 5.2. Natural Heritage Designations

No known designations in the vicinity of the site.

## 6.0 The Appeal

6.1. One no. third party appeals have been received and the primary grounds of appeal are summarised as follows:

- This case emanated from a planning enforcement file.
- A domestic garage was granted permission as part of the dwelling.

- The garage structure was relocated to the north-east of the site and fronting to the 'agricultural laneway' and was configured like a dwelling.
- Condition 6 of the parent permission stated that the proposed garage shall be used for purposes solely incidental to the enjoyment of the dwelling house and shall not be used for the carrying out of any trade, business or other commercial activity and shall not be used as habitable accommodation.
- This condition has been deliberately breached. Serious concerns that an unauthorised dwelling unit has been established since 2017 the domestic use of which could be reactivated.
- The unit has been lived in by others.
- The structure discharges into the existing WWT system serving the dwelling thereby overloading the capacity it was designed to serve.
- Meath County Council received an observation from a member of the Kelly family which refers to this building as a second dwelling and if permission is granted to retain it the people who lived there will return in the future. (This appears to have been an observation in respect of the history file RA180301).
- The applicant can provide a garage under 25sq.m. if he needs one.
- CDP discourages development onto regional roads for single residential purposes.
- The proposed structure will eventually utilise the laneway for more direct and private access to the structure.
- The original site area has been increased substantially to the rear.
- The proposal will result in a deprivation of the residential amenity of the Cantwell property resulting in financial devaluation.
- Urge that the proposal is refused and recommend a condition that the structure be demolished.
- A statutory declaration was supplied by the applicant. This document is not on the current planning file.
- No material changes are proposed to the development now seeking retention other than minor tinkering.

## 6.2. Planning Authority Response

- All matters raised in the appeal statement are fully addressed in the planner's report.
- Requests ABP to uphold permission to grant permission subject to conditions.

## 6.3 Response from First Party to Third Party appeal

- The applicant commenced construction on the house in 2013 and then commenced construction on the outbuilding in 2017, which does not comply with the approved siting and dimensions for the detached garage as approved under the parent permission.
- The applicant assisted family members at the time, who were in need of housing, to utilise the outbuilding as temporary accommodation.
- The application RA180301 sought permission to retain the detached building comprising games room, utility room with shower and toilet at ground floor level and home office and storage at mezzanine level.
- The planner confirmed the findings of the enforcement team that the outbuilding was in use for residential purposes. The planner therefore recommended refusal.
- This application seeks the retention of the single storey detached building. The proposal also seeks permission for the removal and replacement of 2 no. windows on front elevation with garage door and a number of other amendments.
- Permission was granted subject to conditions.
- The appellants are incorrect in stating the subject development is identical to the previously refused development. The existing structures is to be retained but amendments are proposed.

- The conditions of the planning authority will restrict the use of the structure and requires further amendments. Condition 4 will open up the raised platform at mezzanine level meaning it is no longer an enclosed room.
- Removal of the features as required by the planning authority is considered reasonable and necessary to ensure the structure is used solely for its intended purposes as an ancillary outbuilding to be used in connection/incidental to the main dwelling house.
- The principle of providing a detached garage has previously been approved.
- The applicant intends to comply fully with the conditions.
- The response makes reference to the provisions of the development management guidelines and the basic criteria that planning conditions need to meet.
- Condition no 2 would ensure no additional people reside at the appeal address and therefore would not result in an increase loading on the existing waste water treatment system.
- The laneway referred to by the appellants is located outside site boundary of the applicant. The lane serves agricultural lands to the rear. A declaration from the Executor of the will of the late Des Kelly (the applicant's father) is enclosed, clarifying that these lands have not been bequeathed to the applicant.
- Retrospective permission is being sought for a domestic garage/shed. It is submitted that the size and form of the subject structure is appropriate to its function. No adverse residential amenity impacts would arise on the appellants' property.
- The appellants' view that the subject development would generate additional traffic is unfounded. The lawful use of the structure for its intended ancillary purposes would not give rise to either the formation of an additional vehicular access onto the R155 nor would it result in additional traffic generation.
- The applicant fully intends to comply with conditions and as such there would be no devaluation to the appellants' property.



- A revised statutory declaration has been provided and is on file.
- The conditions are considered appropriate and will provide an appropriate level of control to the planning authority to regularise and control the development.

## 7.0 **Assessment**

Pursuant to site inspection and inspection of the surrounding environs including examination of all documentation, plans and particulars, and submission/observation on file, the following are the relevant planning considerations of this application:

- Principle of retaining structure
- Impact on existing residential amenity
- AA screening

### 7.1 Principle of retaining structure

This application is seeking retention of an unauthorised structure which was previously refused permission. The proposal is to retain the structure as a garage which is, in my opinion, acceptable in principle. The structure whilst constructed without the benefit of planning permission is located within the boundaries of an existing dwelling. It does not have independent road access and as such can reasonably be construed as a structure that would be ancillary to the main dwelling on site.

The use of the structure would appear to be the main issue that the appellants are concerned about. Whilst the applicant has indicated that the structure was used for residential purposes in the past, it is now intended to use the structure as a domestic garage. Pursuant to site inspection, I note that a kitchen exists at ground floor including provision of a stove. It is proposed to retain this area as a utility area. The structure currently has the appearance of a domestic structure however not one that could reasonably be referred to as a 'garage' primarily due to the lack of openings

wide enough to accommodate the parking of vehicles. The details on file indicate that a garage door is to be fitted c. 4.2m in width to the west (front) elevation. The planning authority has also conditioned the removal of a stud wall at mezzanine level and that this space is used for storage only, which the applicant has no objections to. I consider that all partitions at this level should be removed.

With regard to Condition 3, I note that it requires the removal of internal doors. I consider this to be unreasonable. The existing layout is open plan and the applicant is seeking to provide a garage component to the front of the structure with a utility and toilet to the rear of the structure. It is reasonable that internal doors to these areas would exist. I agree that the stove and flue should be decommissioned and removed as it is not considered to be compatible with the use of the structure as a garage. There is no justification for this stove in the context of the proposal before the Board. I also consider that the window serving the mezzanine level should be removed as this area will be used for storage use only and is not required.

Having regard to the proposal by the applicant i.e. modifications to be made to the structure in conjunction with recommended conditions hereunder, I consider that the retention of the existing structure as a garage is acceptable.

## 7.2 Impact on existing residential amenity

The appellants have set out that the proposal would devalue their property and would result in deprivation of their residential amenity. I do not consider that a structure to be used as a garage ancillary to the main dwelling would devalue property. Furthermore, the location of the structure does not in any way result in overlooking or overshadowing of their property and in fact is quite removed from their property with the presence of an agricultural lane located between the two properties. I am satisfied that there would be no impact on the existing residential amenities of the area. Whilst I can understand the concerns of the appellants mainly due to the unauthorised nature of the development and that the structure has been used for residential purposes in the past, the applicant is seeking to regularise the matter. It is not appropriate to speculate what the structure may be used for in the

future. The Board also has no remit with regard to enforcement issues and this is a matter that should be pursued with the local authority in the appropriate manner if so required.

### 7.3 AA Screening

Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

## 8.0 **Recommendation**

I recommend that permission is **granted** for the proposed development subject to the following conditions

## 9.0 **Reasons and Considerations**

Having regard to the provisions of the Meath County Development Plan 2013-2019, the pattern of development in the area, and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would not give rise to a traffic hazard. 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 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. In the default of agreement the matter(s) in dispute may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The developer shall carry out the following requirements within three months of the date of this permission:
  - (a) The stove and flue shall be decommissioned and permanently removed from the structure.
  - (b) The shower and all associated fittings including the shower tray and shower door shall be permanently removed.
  - (c) The internal wall shall be erected between the utility room and garage area as shown on drawing no. 18017.
  - (d) The garage doors shall be fitted on the west elevation.
  - (e) The window at mezzanine level on the east elevation shall be removed permanently.
  - (f) Partition walls at mezzanine level shall be removed.

These works shall be carried out within three months of the grant of this permission.

**Reason:** In the interests of proper planning and sustainable development, to safeguard the amenities of the area.

3. The mezzanine level shall be used for storage purposes associated with the main dwelling house only.

**Reason:** In the interest of proper planning and orderly development.

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.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to use as a domestic garage ancillary to the main dwelling house (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

**Reason:** To protect the amenities of property in the vicinity

---

Joanna Kelly  
Senior Planning Inspector

1<sup>st</sup> December 2018