



An
Bord
Pleanála

inspector's Report ABP-303600-19

Development

Changes to approved garage including attic conservation (previously approved under Planning Ref: 07/3236) and all associated site works.

Location

Emlagh, Craughwell, Co. Galway.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

181570

Applicant(s)

Louis Carr

Type of Application

Retention Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Peter Doyle & Miriam Kelly

Observer(s)

None

Date of Site Inspection

27/03/2019

Inspector

Gillian Kane

1.0 Site Location and Description

1.1. The subject site is located on the south-western side of a local country road, approx. 5km south of the east Galway village of Craughwell. There are a number of one-off dwellings on both sides of this rural road. The subject site comprises a detached dwelling house and a pitched roof gable fronted garage to the rear. The garage has a roller shutter door and a single window on the front elevation.

2.0 Proposed Development

2.1. On the 5th November 2018 planning permission was sought to retain the conversion of the attic space of a permitted garage (permitted under reg. ref. 07/3236) for use as an office / study and playroom. The application was accompanied by a cover letter that stated that while the applicant is a part-time wedding photographer, the garage is not used as commercial premises.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 7th January 2019 the Planning Authority issued a notice of their intention to GRANT permission subject to three conditions. Condition no. 2 states that the garage shall not be used for habitable or commercial purposes.

3.2. Planning Authority Reports

3.2.1. **Planning Report:** Footprint and ridge height are similar to what was granted in 2007. The Planning Authority consider the use of the space to be ancillary to the use of the dwelling. Recommendation to grant permission.

3.3. Third Party Observations

3.3.1. One objection to the proposed development was submitted to the Planning Authority. The grounds of the objection are the same as those made in the appeal and are addressed in detail in section 6.0 below.

4.0 Planning History

4.1.1. Planning Authority reg. ref. **07/3236**: Planning permission was granted for a domestic garage / store of 57sq.m.

5.0 Policy and Context

5.1. Galway County Development Plan 2015 – 2021

- 5.1.1. The site is located on lands designated for landscape sensitivity Class 1 (where Class 1 is the least sensitive and Class 5 is the most sensitive).
- 5.1.2. **DM Standard 6:** Assimilation of Development into Landscape: All permissible buildings should avoid locally obtrusive elevated locations and should be located on mid slopes or lower slopes of rising ground where possible.
- 5.1.3. **DM Standard 8:** Landscaping

5.2. Natural Heritage Designations

- 5.2.1. The subject site is located 4.9km from the Slieve Aughty Mountains SPA and 4.1km from the Rahasane Turlough SPA and SAC.

5.3. EIA Screening

- 5.3.1. Having regard to nature of the development comprising the retention of an agricultural development in a rural area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal against the decision of the Planning Authority to grant retention permission has been submitted by the adjoining landowner to the south. The grounds of the appeal can be summarised as follows:
- The decision of the Planning Authority to remove the commercial operation of the structure is welcomed.
 - The unauthorised development is a two-storey garage. Permission had been granted for a single storey shed (ref.7/3236).
 - Access to the structure is by two doors – one on the north elevation and one to the rear which is accessed via a footpath and steps.

- Users accessing the structure have a clear view of the appellants private rear open space. This devalues the property and affects the appellants enjoyment of their private open space.
- The Planning Authority should have conditioned a 2m high fence relative to the footpath and omitted the door on the southern elevation.
- An extremely bright light over the door on the southern elevation lights up the appellants rear garden. Low lighting has been installed but the high level light fixture remains.
- The first-floor gable window of the structure overlooks the rear window of the ground floor bedroom / playroom of the appellants house and the first-floor bathroom window. This was not addressed by the Planning Authority. The Board should require this to be closed permanently. There are two rooflights on the northern elevation which provide sufficient light for a building which is to be used for purposes ancillary to the dwelling.
- The Board is requested to remove all aspects of overlooking and light pollution. The appeal is accompanied by a number of photographs.

6.2. Applicant Response

6.2.1. The applicant has responded to the third-party appeal. The applicant provides detail of the previous relationship between the two neighbours. The response contains a number of photographs. The response to the appeal can be summarised as follows:

- The appellant has built a garage without planning permission. Photos submitted. It is submitted that the size and design of the garage / shed is out of character with the area.
- The subject structure is not and never has been run in a commercial manner. It has a small office / study and playroom.
- The structure was built to the plans approved by Galway County Council long before the appellant moved in. The structure is not unauthorised.
- There are only small steps leading to the door on the southern elevation. Photo submitted showing that it is near impossible to see into the appellants property from this door.

- The applicant has erected a screen fence from the front elevation of his house to the end of the garage. There is a height difference between the two dwellings.
- The light above the door has been removed. Low level lighting has been installed.
- Photos submitted by the applicant from within the structure show that it is virtually impossible to see into the appellants windows. The window has since been frosted.
- It is submitted that the appellants photos are not correct in an attempt to mislead the Board regarding the impact. There are trees and shrubs along the fence between the two properties.
- The Board is requested to reject the appeal.

6.3. **Planning Authority Response**

6.3.1. None on file.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Impact on Residential Amenity

7.2. **Principle of Development**

7.2.1. The subject structure to be retained is a detached structure to the rear of the existing detached dwelling. The applicant has indicated that the structure is not being used as a commercial enterprise and the Planning Authority have accepted this submission. On the date of my site visit there were no obvious signs (advertising, unlocked gate, additional vehicles etc) of a business. Should such an operation

occur at a future date, the enforcement process within the Local Authority is the correct route to explore.

- 7.2.2. The subject structure appears as a standard domestic garage with attic accommodation. Such structures are not uncommon in rural areas. I am satisfied that the subject garage with attic floor space used solely by and for the residents of the adjoining dwelling house is acceptable in principle. Should the Board decide to grant permission, such a condition can be attached.

7.3. Impact on Residential Amenity

- 7.3.1. I am satisfied that the level of screening on the appellants boundary is sufficient to prevent any overlooking of the rear appellants dwelling or rear private open space.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1.1. It is recommended that permission to retain be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development to be retained would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission to retain is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- 1 The development shall be retained 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 shall not be used as commercial premises and shall be restricted to use as ancillary to the adjoining dwelling use, except with a prior grant of permission.

Reason: To protect residential amenity.

Gillian Kane
Senior Planning Inspector

29 March 2019