



An
Bord
Pleanála

Inspector's Report

ABP-304235-19

Development	Retention of completed garage, entrance and partially-constructed garage; and permission to complete partially-constructed garage and all associated site works.
Location	Cappagh, Cappawhite, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	18/60/0435
Applicant(s)	Sean Clancy
Type of Application	Retention & Permission
Planning Authority Decision	Grant retention & permission
Type of Appeal	Third Party
Appellant(s)	John Ryan
Observer(s)	None
Date of Site Inspection	11 th July 2019
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.25ha, is located on the south side of the L1156-1 county road – some 0.5km due south-southwest of the village of Cappawhite, Co. Tipperary. There is a detached bungalow on the site. A detached garage, with pitched roof has been constructed, slightly to the rear of the house. The rudiments of a metal frame of an intended larger garage structure has been erected further towards the rear of the house curtilage. Immediately to the rear of the house, a large area has been concreted and surrounded by a 1.8m high wall. A good portion of the remainder of the site has been covered in hard-core – within which is located the septic tank and presumed percolation area. The site falls very gently from north to south. There are a number of cars and other pieces of machinery/equipment stored within the rear garden area.
- 1.2. The 50kph speed restriction applies in this area. There are no public footpaths and there is no public lighting. The access road is wide enough for two cars to pass. Sight distance at the entrance is good in either direction.
- 1.3. To the north, the site abuts the L1156-1 access road – the boundary with which is a newly-constructed wall and railings. To the east, the site abuts agricultural land – the boundary with which is part concrete fence and part old hedgerow (severely pruned): there is an open drain running along part of this boundary. To the southwest, the site abuts agricultural land – the boundary with which is a stream. To the west, the site abuts the curtilage of a bungalow – the boundary with which is trimmed cypress hedge.

2.0 Proposed Development

- 2.1. Retention permission and permission sought on 11th April 2018, as follows-
 - Retention of completed garage of 26.5m².
 - Retention and completion sought for partially-constructed garage of 70m² and 4m high.
 - Retention of vehicular entrance to the site.
 - Stormwater disposal from partially-constructed garage to watercourse.

2.2. Following a request for additional information, the following was received on 7th March 2019-

- Reduction in floor area of garage for retention and completion to 42.75m².
- Indication of hard-core area to the rear of the house – for which retention permission is now sought.

3.0 Planning Authority Decision

By Order dated 2nd April 2019, Tipperary Co. Council issued a Notification of decision to grant retention and permission subject to 5 no. conditions – the principal of which can be summarised as follows-

1.(a) Development shall be carried out in accordance with plans and particulars received with the application and on 7th March 2019.

1.(b) Within two months, the 4 no. existing metal pillars identified for removal on additional information drawings shall be removed.

2. The proposed garage, yard and garage for retention & completion shall be used only for purposes incidental to the enjoyment of the dwelling-house.

3.(b) The roller door on the north elevation of the proposed garage is not permitted – and the area shall be finished with nap plaster instead.

4. All surface water shall be disposed of within the site to soakpits.

5. Relates to demolition works and hours of construction.

4.0 Planning History

Ref. 17/60/0067: Application for retention & completion of garage, by Sean Clancy, was declared withdrawn on 22nd September 2017, following failure to respond to additional information request.

Ref. 98/21: Approval granted to Kieran Kelly for bungalow, septic tank and entrance on this site on 15th April 1998.

Ref. 96/343: Outline permission granted for a house on this site.

Ref. 95/636: Outline permission granted for a house on this site.

5.0 Policy Context

5.1. Development Plan

The relevant document is the South Tipperary County Development Plan 2009-2015 (as varied). Section 10.11.9 of the Plan states- “The scale and detail of domestic garages shall be subordinate to the main dwelling and their use shall not impact on adjoining residential amenity. Detached garages should be less than 70sqm and should be discreetly located on the site to compliment the appearance and finish of the dwelling”.

5.2. Natural Heritage Designations

The site is neither within nor immediately abutting any nature conservation area. The closest such is the Philipston Marsh SAC (Site code 001847) – located some 770m to the south-southeast of the site, as the crow flies. The site is not in hydrological connectivity with this SAC.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal from John Ryan, Cappagh, Cappawhite, received by An Bord Pleanála on 18th April 2019, can be summarised in bullet point format as follows-

- The appellant resides in the next-door house.
- The appellant does not object to the grant of planning permission for retention of the existing garage or the entrance.
- The appellant objects to the grant of retention and completion permission for the reduced 42m² garage.
- The appellant has written to TCC on several occasions in the recent past, complaining of unauthorised development on the current appeal site – relating to car dismantling and storage of scrap.
- The site was cleared in time for inspection by the Enforcement Officer of TCC.

- Recent photographs illustrate that the applicant intends to continue with his car-dismantling/car-repair business at this site.
- The existing garage on this site is more than adequate for domestic needs.
- The purpose of the second garage is to facilitate the applicant's business.
- The applicant has no Waste Licence for the activities undertaken on this site. There is no indication of how waste on this site is handled or disposed of.
- Noise from this site is detrimental to the residential amenities of the area – up to 22.00 hours. Noise has disturbed the sleep of residents at the appellant's house.
- The car-dismantling/car-repair business is an eyesore, and results in devaluation of property

6.1.2. The appeal is accompanied by the following items of note-

- Selection of 10 no. colour photographs of the appeal site – sent to TCC.
- Selection of 6 no. photographs of appeal site – taken on 5th April 2019.
- Copy of correspondence between appellant and TCC Enforcement Officer; relating to the appeal site.

6.2. Applicant Response

The response of Sean Clancy, received by An Bord Pleanála on 13th May 2019, can be summarised in bullet point format as follows-

- The applicant is fully compliant with planning laws.
- The appellant's arguments are spurious and vexatious.
- The Board is invited to undertake a scheduled or unannounced inspection of the site.
- The applicant does not operate a dismantling business.
- The site is not infested with vermin.

6.3. Planning Authority Response

There is no response from Tipperary County Council to the grounds of appeal.

6.4. Observations

None received.

7.0 Assessment

The principal issues of this appeal relate to residential amenity and public health.

7.1. Development Plan Considerations

Section 10.11.9 of the development plan requires that domestic garages shall be subordinate to the main residential use on the site, and shall not, in any case, be greater than 70m². There is an existing completed garage on the site of 26.5m². The applicant proposes to complete a partially-built garage structure on the site – reducing the originally intended floor area from 70m² to 42.75m². This would bring the total of the two garage structures on the site to just under 70m² – in compliance with development plan policy.

7.2. Design & Layout

- 7.2.1. Retention permission is sought for a recessed entrance and roadside boundary treatment. Sight distance is good in either direction at the new entrance, which is located within the 50kph speed restriction zone associated with nearby Cappawhite village. I would see no difficulty with this aspect of the development. I note that the 3rd Party appellant has no objection to this retention.
- 7.2.2. Retention permission is sought for a detached garage of 26.5m² – to the rear of the existing bungalow on the site. This structure is visible from the public road. It has been finished to match the house on the site. I would see no difficulty with this retention. I note the 3rd Party appellant has no objection to this retention, but comments that it should be sufficient to meet the domestic needs of the applicant.
- 7.2.3. A concrete yard has been laid to the rear of the house, and largely surrounded by 1.8m high concrete post and infill concrete panel fencing. Within the rear garden proper (to the rear of this fenced area), a significant portion has been covered with hard-core.
- 7.2.4. Towards the rear of the site, 8 no. metal posts have been erected – the first part of a second garage structure on the site. The applicant, by way of additional information

submission, agreed to reduce the area of this incomplete garage structure from 70m² to 42.75m². This would bring the quantum of garage floorspace for the house to just below 70m² – in compliance with the development plan standard.

- 7.2.5. It is the contention of the appellant that the site was being used for the repair and dismantling of cars. The PA was satisfied that the site was not being so used on the occasion of visits for the purpose of enforcement and the planning application the subject of this appeal. The appellant has submitted a series of photographs which purport to show the rear garden in use for car-repair and car-dismantling. Certainly, on the date of site inspection, there were a number of cars parked within the rear garden area – but no direct evidence of a car-repair/dismantling business. The applicant states that no such business is undertaken at the premises. Condition 2 of the Notification of decision to grant retention and permission, specifically required that the use shall be only for purposes incidental to the enjoyment of the dwelling-house. Any unauthorised use of the site would be a matter for enforcement by TCC.
- 7.2.6. Condition 3.(b) of the Notification of decision to grant planning permission required some redesign of the garage for retention/completion – specifically the omission of the roller-shutter door on the northern elevation. This roller shutter door is the one which would have addressed the dwelling-house on the site (and would be one which might cause most nuisance to the appellant's property. Provision is made for two roller-shutter doors within the eastern elevation of the building, and I would see no difficulty with the omission of the roller-shutter in the northern elevation. The building is to be maximum 4m high, with mono-pitch roof. External walls are to be of napped plaster, and the roof is to be of corrugated sheet metal. The building will be partly obscured by the trimmed cypress hedge which separates the appeal site from the appellant's property. The appellant is concerned that the 42.75m² structure will be used for commercial car-repair/dismantling purposes. It would be possible to restrict any use of the shed by way of condition attached to a grant of permission.

7.3. **Other Issues**

7.3.1. Appropriate Assessment

Having regard to limited nature of the proposed development, and to the fact that there are no sanitary facilities within it, 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 an European site.

7.3.2. Development Contribution

The erection of domestic garage structures would not appear to be subject to payment of a development contribution, and none such was attached by TCC.

7.3.3. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

7.3.4. Archaeology

The site is the curtilage of an existing rural bungalow. There are no Recorded Monuments in the immediate vicinity. There are no archaeological implications arising from this development.

7.3.5. Drainage

The development is not likely to lead to flooding of this or any adjoining site. There are no sanitary facilities located within either garage structure. Surface water from roof areas is to be discharged to soakways. There is a septic tank located immediately to the rear of the fenced-in area to the rear of the house. The percolation area for this septic tank would appear to be located within the hard-core area within the back garden. I would be concerned that parked vehicles/equipment/stored materials within this area could crush percolation pipes and result in ponding of effluent within the site – leading to odour nuisance and health concerns for residents on this and adjoining sites. There is an open drain located on the eastern boundary, and a stream running along the southwestern boundary of the site. A condition should be attached to any grant of permission requiring the fencing-off of the percolation area from any car-parking or heavy machinery/equipment/materials storage.

7.3.6. Waste

The 3rd Party appellant makes reference to waste handling and storage on this site. This is not a planning issued. Retention has been sought for a garage structure and

retention/completion sought for a second garage structure. No reference is made to any commercial activity which might require a Waste Permit or Waste Licence.

8.0 Recommendation

I recommend that retention permission and permission be granted for the Reasons and Considerations set out below, and subject to the attached Conditions.

9.0 Reasons and Considerations

Having regard to the residential use of the site and the proposed reduction in the floor area of the garage for retention and completion, it is considered that, subject to compliance with the Conditions set out below, the proposed development would not be detrimental to the residential amenities of the area, would not be prejudicial to public health, and 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, as amended by further plans and particulars submitted on the 7th day of March 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The roller-shutter door in the northern elevation of the garage for retention/completion shall be omitted, and the northern elevation plastered to match the other walls of the garage structure.

Reason: In the interest of residential amenity of adjoining property.

3. The garage structures on the site shall be used solely for purposes incidental to the enjoyment of the dwelling-house on the site; and shall not be used for any commercial purposes whatsoever.

Reason: In the interest of residential amenity.

4. Surface water from the garage structures on the site shall be discharged to soakways.

Reason: In the interest of public health and to avoid flooding of adjoining property.

5. The extent of the percolation area associated with the septic tank within the rear garden area of this house, shall be fenced-off from the remainder of the site, in order to prevent damage to percolation pipes. No cars, heavy equipment/material of any sort shall be stored within this area.

Reason: In the interest of public health.

**Michael Dillon,
Planning Inspectorate.**

23rd July 2019.