



An
Bord
Pleanála

Inspector's Report ABP 304978-19

Development	Retain and complete alterations to elevations, extension and change of use of detached garage to granny flat and associated site works.
Location	13 Castle Gardens, Station Road, Shean Upper, Blarney, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/5169
Applicants	Lorraine & Michael Sheehy
Type of Application	Permission & Retention Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	David & Marie O'Brien
Observer(s)	None
Date of Site Inspection	17/09/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

No. 12 Castle Gardens is a detached dormer dwelling within a mature residential area accessed from Station Road to the north-east of Blarney town centre. It has a stated area of 0.085 hectares.

A detached garage, setback into the rear garden has been extended with partial works for its change of use into a self-contained living unit carried out.

Due to the topography of the area the dwellings along the cul-de-sac road step down from north-west to south-east. The site is therefore lower than No. 13 (appellants' property) to the north-east. The shared boundary is delineated by a hedge and timber fence with a timber fence to the boundary to the south-east. The rear boundary is also delineated by a fence backed with trees screening the site from the N20. There is a 1st floor window in the side elevation of the appellants' dwelling serving a bedroom overlooking the site.

2.0 Proposed Development

The proposal entails the retention and completion of an extension to the original garage and change of use to a 2 no. bedroom living unit to be used as a 'granny flat' to be used by the parents of one of the applicants.

The existing floor area is stated to be 27 sq.m. with that to be retained 29.7 sq.m. giving an overall area of 56.7 sq.m.

3.0 Planning Authority Decision

3.1. Decision

Grant permission and retention permission for the above described development subject to 5 conditions including:

Condition 2: granny flat to be used for purposes ancillary to the main dwelling occupied by a member of the immediate family. Unit not to be sold or let independently of the main dwelling. In the event of the granny flat no longer being required it and the main dwelling shall be confined solely to use as a single private dwelling unit.

Condition 3: Section 47 agreement requirements.

Condition 4: No subdivision of the curtilage and private amenity space.

Condition 5: Details of additional boundary treatment along the eastern boundary to be submitted prior to 1st occupation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report notes that of 31/05/19 the site falls within the jurisdiction of Cork City Council. It is also within the preferred route selection for the M20 motorway. Subject to appropriate and satisfactory treatment along the eastern boundary the proposal is unlikely to result in a significant adverse impact on residential amenity and privacy of No.14. Due regard is had to the requirements of section 5.7.13 of the County Development Plan. The proposal will result in one dwelling and one ancillary accommodation unit on the site. Due to the nature of the development, the relationship and boundary treatment between the site and No.12 it is considered that the proposal will not result in a significant adverse impact on its residential amenities and privacy. Subdivision of the garden and private amenity space can be precluded by condition. There are no significant issues in relation to additional parking, sewage treatment or private amenity space requirements. A section 47 agreement to be entered into to ensure that it is retained as part of the existing property in perpetuity as a burden on the site. Having regard to the responses from TII and Council's National Road Design Office and the scale and nature of the proposal it is considered that the development is unlikely to compromise the future M20 road scheme. Grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

Transport Infrastructure Ireland will rely on the planning authority to abide by official policy.

Irish Water has no objection.

3.4. **Third Party Observations**

An objection received by the planning authority is on file for the Board's information. The issues raised are comparable to the grounds of appeal summarised in section 6 below.

4.0 **Planning History**

I am not aware of any previous planning applications on the site.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. Cork County Development Plan 2014.

Provision of Ancillary Family Accommodation in Granny Flats

Paragraph 5.7.12 Consideration can be given to building ancillary accommodation either as an extension to an existing house or as a separate dwelling unit in cases where it can be shown that such is required for a family member. This would include circumstances where a member of the family requires separate living space which is on the same property as the main dwelling. Such units can be established in conjunction with a dwelling house, either within or attached to the house but within the bounds of that site.

Paragraph 5.7.13 This provision allows families to provide accommodation for older or disabled relatives/persons. These units should be permitted where the following criteria can be met:

- There is only one dwelling and one ancillary accommodation unit on the same site.
- The ancillary unit should not impact adversely on either the residential amenities of the existing property or the residential amenities of the area.
- The property and site should not be subdivided.
- The unit should be integrated visually with the existing dwelling.

- Additional parking, sewage treatment units or private amenity space is not required.
- The unit should not be sold off separately from the existing dwelling and a Section 47 agreement should be entered into by the property owner to ensure that any physically separate unit be retained as part of the existing property in perpetuity as a burden on the title.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by John McCarthy BE on behalf of the appellants can be summarised as follows:

- The drawings do not show the full extent of the area for change of use. There are anomalies in the details given on the planning application form. The plans do not accord with the description of the application. The application is therefore considered invalid.
- The proposal is an over intensification of use of the site. There are concerns that it would be used as a separate dwelling unit. It would be impossible to regulate and police the use of the unit.
- The proposal is out of character with and conflicts with the established pattern of development in the vicinity. The structure does not integrate in any manner with the existing dwelling. It is setback from the dwelling. It represents backlands development.
- The development plan requires a granny flat to be connected to the main dwelling. The internal layout is problematic and is not suitable for the purpose as intended.
- It would adversely impact the amenities and value of adjoining properties.

- It would set an undesirable precedent.
- The proposal conflicts with guidance in the Urban Design Manual and development plan provisions. No design statement was prepared.
- The conditions attached to the planning authority's decision are inadequate.
- The boundary with the appellants' property is vulnerable. Their amenities would be adversely affected.
- No submissions were made by other internal departments. It is not correct for this to be taken as meaning they have no objection to the proposal.

6.2. Applicant Response

The response by CMG on behalf of the applicants can be summarised as follows:

- The description of the development clearly highlights and describes the works proposed. The drawing indicates in blue the changes to the existing garage elevations in addition to the extension. The proposal is for use as a granny flat for year round occupation.
- The existing garage was built with the house.
- The occupants would be the applicants' elderly parents. The unit affords independence with added security of family members nearby.
- There are specific conditions limiting what can be done including the subdivision of the site.
- It does not constitute backland development of a separate dwelling unit.
- The internal layout is appropriate for their needs.
- There is no over intensification of the site. The extension is just 26 sq.m.. Had an extension to their dwelling been pursued 40 sq.m. could have been built without permission.
- The proposal accords with the development plan provisions.
- The proposal cannot be seen from the appellants' property except from the 1st floor gable window. Any overlooking that is existing is from the appellants into

the applicants. There would be no overlooking from ground floor windows which are over 10.3 metres from the shared boundary.

- The hedging is in good condition and the fence is only relevant to the side of the garage which, itself, forms an additional boundary.
- The standard reply in nearly all cases is that unless internal offices have an objection or concern then no comments or submissions are made.
- The conditions attached are reasonable.
- The applicants have agreed with the occupants of No.14 that a block wall would be constructed along the boundary.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

7.0 **Assessment**

I consider that the issues arising can be assessed under the following headings:

- Principle of Development and Compliance with Development Plan Provisions
- Impacts on Amenities of Area and Adjoining Property
- Other Issues

7.1. **Principle of Development and Compliance with Development Plan Provisions**

The site is within the development boundary of Blarney, and whilst not specifically zoned, the aim is to protect and improve residential amenity and to provide for facilities and amenities incidental to those residential areas.

The proposal entails the retention of an extension to and change of use of an existing detached garage for use as a granny flat. As proposed the unit would have a floor space of 56.7 sq.m.

The current County Development Plan allows for a positive presumption towards ancillary family accommodation in granny flats, either as an extension to a dwelling or as a separate dwelling unit where certain specified criteria are met. Thus, there is no specific requirement that such type provision be attached to the main dwelling.

As noted the unit is for the parents of one of the applicants.

In terms of compliance with the said criteria I submit that:

- The unit which is to the rear is, and will continue to appear subservient and ancillary to the main dwelling, and is so designed that it will integrate visually with same. No other accommodation is proposed.
- I propose to address the issue of impact on the amenities of adjoining property below.
- Additional parking and private amenity space are not required, whilst the site is fully serviced.
- A positive decision in this instance would be subject to a condition precluding the occupation of the unit save for its intended use by family members.

Therefore, subject to the protection of the amenities of adjoining property I consider the proposal to be in compliance with the Development Plan provisions for such type accommodation.

I would also submit that in view of its ancillary nature and interrelationship with the main dwelling that the proposal does not constitute backland development within what is generally construed to be the meaning of same. The resultant layout of the unit back from the main dwelling is not fundamentally unacceptable but needs to be assessed in terms of the impact on the amenities and privacy of adjoining dwellings and the protection of established character.

7.2. Impact on Amenities of the Area and Property in the vicinity.

The site is within a mature residential estate of detached dwellings accessed from Station Road in Blarney. As noted above the detached garage is setback approx. 10 metres and to the side of the rear wall of the main dwelling and is not visible save from the vicinity of the front driveway.

Due to the topography and falls the appeal site is lower than the appellants' property to the north-west and higher than the neighbouring property to the south-east. The boundary with the appellants' property is delineated by a hedge and fencing with an ancillary structure/outhouse setback from their dwelling also providing screening. The structure as extended is to maintain a 10.344 metre setback from the shared boundary windows in both the front and side elevations. As evidenced on day of inspection the structure is not visible from the appellants' ground floor or garden area. Views of the structure are available from the 1st floor window in the gable which serves a bedroom. On this basis I consider that the development to be retained and completed would not give rise to adverse impacts on their property by reason of overlooking or loss of privacy.

The structure has a setback of between 1.378 and 1.612 metres from the south-eastern boundary which is currently delineated by a timber fence. A suitable boundary treatment as required by condition 5 is reasonable to address issues of privacy. A block wall is mentioned in the applicant's appeal response.

7.3. Other Issues

I consider that the development as described in the public notices, the details given in the planning application form and the plans and drawings are clear as to the nature and extent of the development for which retention permission and permission is sought. I note that the Planning Authority was satisfied that the said details were in accordance with the requirements of Articles 18 to 23 of the Planning and Development Regulations, 2001, as amended, and therefore deemed the application to be valid.

Whilst the appellants express reservations as to the proposed use of the unit the application before the Board is for a granny flat only. A condition precluding its use for any other purposes is common practice. Enforcement is a matter for the planning authority.

In terms of the issue of precedent each case is assessed on its merits.

Appropriate Assessment

Having regard to the nature and extent of the development as proposed, the receiving environment and the distance to the nearest European site it is considered that 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

Having regard to the foregoing I recommend that permission and retention permission be granted for the following reason and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the scale, nature and design of the development to be retained and completed and to the pattern of development in the vicinity, 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 property in the vicinity by reason of overlooking or loss of privacy, and would be in accordance with the provisions for ancillary family accommodation in granny flats, as set out in the Cork County Development Plan, 2014. 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 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 proposed granny flat shall be used for purposes ancillary to the main dwelling only. It shall be occupied solely by a member(s) of the immediate

family of the occupier of the main dwelling. It shall not be sold or let independently of the main house and, when no longer required for use as a granny flat, shall revert to use for purposes incidental to the enjoyment of the dwellinghouse.

Reason: In the interest of clarity and residential amenity.

3. The external finishes of the granny flat shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity

4. There shall be no subdivision of the private rear amenity space.

Reason: In the interest of residential amenity.

5. Within two months of this order details of additional boundary treatment along the eastern boundary (adjoining No.14 Castle Gardens) shall be submitted for the written agreement of the planning authority. The additional boundary treatment shall be completed prior to the first occupation of the accommodation unit.

Reason: In the interest of protecting the amenities of adjoining property.

Pauline Fitzpatrick
Senior Planning Inspector

October, 2019