



An
Bord
Pleanála

Inspector's Report ABP-305463-19

Development	Construction of rear extension to house, and change of use of garage/store to granny flat and retention of house.
Location	Carnmore West, Oranmore, Co Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	191082
Applicant(s)	Catherine McDonagh
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	Ronnie Ferguson and Orla Kenny
Observer(s)	None
Date of Site Inspection	12/12/2019
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located at the end of an unsurfaced rural laneway, that runs south from the R339 in the east Galway area of Oranmore. The laneway comprises a large number of one-off dwellings, interspersed with agricultural land.
- 1.1.2. Currently on the subject site is a single storey dwelling, that although in the process of some construction is occupied. To the rear is a single storey structure that is appears nearing completion.

2.0 Proposed Development

- 2.1.1. On the 25th July 2019, planning permission was sought by Catherine McDonagh for the construction of a rear extension (63sq.m.) to link an existing dwelling (226.50sq.m.) and an existing garage. Permission is also sought for a change of use of the garage (82sq.m.) to a dwellinghouse.
- 2.1.2. The application was accompanied by a number of letters explaining the need for the proposed development.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 5th September 2019, the Planning Authority issued a notification of their intention to GRANT permission subject to 5 no. conditions. Condition no. 3 restricts the use of the granny flat to residential use directly associated with the main dwelling. When it's use is no longer required, it shall revert to use as part of the main dwelling.

3.2. Planning Authority Reports

- 3.2.1. **Planning Report:** Proposed single storey extension will link granny flat to main dwelling. Recommendation to grant permission.

3.3. Prescribed Bodies

- 3.3.1. None on file

3.4. **Third Party Observations**

- 3.4.1. Two submissions, raising the issues of development contrary to permissions, planning history on site, overlooking, use of garage for residential purposes.

4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref. **17/12**: Planning permission granted for the retention of shed of 82sq.m., subject to 4 no. conditions. Condition no. 3 requires the store to be used non non-habitable uses only.
- 4.1.2. Planning Authority reg. ref. **14/449**: Planning permission granted for a dwellinghouse, garage and associated services (226.50sq.m.), subject to 16 no. conditions. Condition no. 2 is a standard occupancy clause.

5.0 **Policy Context**

5.1. **Galway County Development Plan**

- 5.1.1. **DM Standard 4: Family Granny Flats (Urban & Rural Areas):** The creation of a family flat to be occupied by a member of the occupant family is generally acceptable. Generally speaking, the granny flat must be attached to the family home unless there are exceptional circumstances to warrant a separate detached unit.
- 5.1.2. The subject site is located in an unzoned rural area which is designated in the development plan as being a Rural Area under Strong Urban Influence. Section 2.6.7 of the plan states that such areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of Galway City, rising population, evidence of considerable planning pressure for development of housing due to proximity to such urban areas or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.
- 5.1.3. Section 2.6.7 of the development plan states that development in the un-serviced countryside requires careful management, in order to balance the need to revitalise and support communities, while ensuring the overall sustainable development of these areas.
- 5.1.4. **Objective RHO 9 - Design Guidelines:** It is an objective of the Council to have regard to Galway County Council's Design Guidelines for the Single Rural House

with specific reference to the following: a) It is an objective to encourage new dwelling house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape; b) It is an objective to promote sustainable approaches to dwelling house design and encouraging proposals to be energy efficient in their design and layout; c) It is an objective to require the appropriate landscaping and screen planting of proposed developments by using predominately indigenous/local species and groupings.

5.2. Natural Heritage Designations

5.2.1. The subject site is located 3.7km from the Lough Corrib SAC (000297), 2.9km from the Galway Bay Complex SAC (000298) and 4.5km from the Inner Galway Bay SPA (004031).

5.3. EIA Screening

5.3.1. Having regard to nature of the development comprising retention of and extension of an existing dwelling, the conversion of an existing structure, and the location of the site there is no real likelihood of significant effects on the environment arising from the proposed and existing 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

- An agent for a third-party has submitted an appeal against the decision of the Planning Authority to grant permission. The appellants are stated to be the owners and residents of a dwelling granted planning permission under Planning Authority reg. ref. 03/1244.

6.1.1. Planning History

- Condition no. 2 of Catherine McDonagh's permission to construct a dwelling (reg. ref. 14/449) restricted the use of the dwelling to the applicant, family etc. The permitted plans showed the dwelling 4.9m from the northern boundary. The permitted garage had a floor area of 56sq.m.

- Under reg. ref. 17/12 Catherine McDonough applied to retain a shed of 82sq.m. and to use to for habitable purposes. Condition no. 3 restricted the use of the shed to non-habitable purposes.
- Notwithstanding condition no. 3 the applicants converted the shed to a granny flat.
- The proposed extension creates a dwelling of 45m long.
- Contrary to the permission, the subject dwelling has been constructed 3m from the northern boundary.

6.1.2. The grounds of the appeal can be summarised as follows:

- The construction of the subject granny flat is backland development, contrary to the provisions of the development plan.
- The proposed development is an excessive density of development on the site.
- The windows of the bedrooms are less than the required 3.6m from the boundary and overlook the adjoining property to the north. A condition should be attached requiring opaque glazing of these windows.
- No details of the proposed northern boundary wall have been provided. It should be no less than 1.8m high and run the full length of the extension.
- Two vehicular entrances are proposed. The northern entrance interferes with the residential amenity of the property to the north. The second entrance is designed to facilitate the use of the garage as a separate residential unit.
- The proposed high-level window facing north overlooks the appellants property. It is submitted that the applicants will erect a full height window. This is unnecessary as there is a full height glazed screen on the south.
- Permission should be sought to retain the use of the garage as a granny flat. The garage has already been converted contrary to condition no. 3 of the original permission.
- If the garage had not already been converted, permission would not have been granted for a granny flat. A granny flat should be properly connected to the main dwelling.

- The Board is requested to refuse permission. If the Board decides to grant permission, it should condition the windows to be of opaque glazing and a 1.8m high boundary wall.

6.2. Applicant Response

6.2.1. An agent for the applicant has responded to the third-party appeal. The response can be summarised as follows:

- The dwelling was permitted under Planning Authority reg. ref. 14/449 in 2014, with 16 no. conditions.
- The dwelling is not yet occupied and the enurement clause is in the process of being agreed.
- A new block wall has been constructed along the northern boundary of the site, recessed into the subject property. The appellants hedge is 1m from the boundary wall.
- Planning Authority reg. ref. 17/12 to retain the shed was granted in 2017.
- Planning permission is now sought for a larger site area (0.37ha) and revised proposals including an enlarged treatment plant and all site landscaping.
- The applicant's daughter and son-in-law will live in the granny flat to assist the applicant in the main dwelling, with his medical issues.
- The appellants state that their dwelling was granted permission under Planning Authority reg. ref. 03/1244. The Board will note that 03/1244 was refused permission. The appellants live in a dwelling to the north of the subject site.
- No persons named Sean & Anne Tracy made observations on the file.
- The distance from the outer wall to the new six-block high wall of 3.3m at the front and 3.15m at the rear. This does not include the thickness of the wall. The distances are in excess of 3.6m and therefore should not be of any issue.

6.3. Planning Authority Response

6.3.1. None on file.

6.4. Observations

- 6.4.1. 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 and inspected the site. I have assessed the proposed development and I am satisfied that the single issue is the principle of development.

7.2. Principle of Development

- 7.2.1. The retention of the existing dwelling, in its current location and design is acceptable. The separation distances to the appellants dwelling to the north are sufficient to prevent overlooking.
- 7.2.2. Permission was further sought for an extension to the existing dwelling house to allow a home gym and the conversion of an existing garage into a granny flat. A letter submitted to the Planning Authority from Eamon O'Halloran states that the existing dwelling is his family home. Details of Mr O'Halloran's need for an extension to "my existing dwelling house" are presented with the application. The application includes a number of letters indicating Mr O'Halloran's medical conditions and his need for a home gym and the support of family members on site. In his letter to the Planning Authority, Mr O'Halloran states that he intends to move into the granny flat with his wife (presumed to be the applicant Catherine McDonagh) and that his daughter Elena and her husband will move into the main dwelling. However, in their submission to the third-party appeal, an agent for the applicant states that Mr O'Halloran's daughter and son will move into the granny-flat.
- 7.2.3. Uncertainty regarding the occupation of the proposed two dwellings aside, it is clear that the existing 'garage' on site has already been converted into a dwelling. Permission to retain the structure as it currently stands is required. In this instance, the Board is precluded from granting permission where it is clear that the development has already occurred.
- 7.2.4. The proposed extension to the existing dwelling is acceptable in principle. I note the requirement for a 'link' from the main dwelling to a granny flat in the development plan. The applicant has stated that the proposed extension is to construct a home gym to allow him to address his medical condition on-site. Therefore,

notwithstanding that the existing garage / granny flat conversion cannot be granted planning permission in this instance, the proposed extension is acceptable and is in keeping with the design of the existing dwelling and surrounding area.

8.0 Recommendation

- 8.1.1. GRANT permission for the retention of the dwelling and the construction of an extension in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for the conversion of the garage to a granny flat based on the reasons and considerations marked (2) under.

REASONS AND CONSIDERATIONS (1)

The existing dwelling to be retained and the proposed extension to same are in keeping with the pattern of residential development in the area and is in accordance with the proper planning and sustainable development of the area.

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 existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity

REASONS AND CONSIDERATIONS (2)

The proposed conversion of the garage to a granny flat shall be refused for the following reason:

- 1 On the basis of the submissions made in connection with the planning application and appeal, and the site visit undertaken by the Inspector, it appears to the Board that the proposed development relates to a structure, the conversion of which to a dwelling has already occurred and for which permission has not been granted. The structure in its current form is unauthorised and accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.

Gillian Kane
Senior Planning Inspector

17 December 2019