



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305826-19

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<b>Development</b>	Construction of domestic garage
<b>Location</b>	Derrymore East, O'Callaghan's Mills, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	19484
<b>Applicant(s)</b>	Deon Campher
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Alan Kavanagh
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19/02/2020
<b>Inspector</b>	Gillian Kane

## 1.0 Site Location and Description

- 1.1. The subject site is located 2.4km to the west of O'Callaghan's Mills, in east Clare. The site on the eastern side of the local country road leading to the village of Kilkishen, comprises a two-storey dwelling. To the immediate north of the site, the appellants property comprises a two-storey dwelling with two sheds / out-buildings to the rear.

## 2.0 Proposed Development

- 2.1. On the 20<sup>th</sup> June 2019, planning permission was sought for the construction of a domestic garage of 98sq.m. with a covered roof area to the side and PV solar panels on the roof.
- 2.2. On the 13<sup>th</sup> August 2019, the Planning Authority requested further information showing a revised location, to address the impact on the residential property to the north-east. The Planning Authority stated that while they had no objection in principle, the applicant may wish to reduce the height of the proposed garage. The applicant was asked to provide details of contours of the site and the existing surface water drainage system on site.
- 2.3. On the 10<sup>th</sup> September 2019, the applicant responded to the request with a revised plan. The proposed development omits the proposed side roof, relocates the proposed garage 8.3m to the north-west and reduces the height by 300mm. The applicant states that the proposed garage is 23.5m behind the existing dwelling and is 650mm below the level of the existing and adjacent dwelling.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 16<sup>th</sup> December 2019 the Planning Authority issued a notification of their intention to GRANT permission subject to 4 no. conditions. Condition no. 4 restricts the use of the garage to uses ancillary to the residential use of the dwelling only.

### 3.2. Planning Authority Reports

- 3.2.1. **First Planning Report:** No objection in principle. Large double garage of 54sq.m. with ridge height of 5.9m on the adjoining site. Proposed garage might affect light to the rear of dwelling to the north-east. Applicant should be requested to relocate.

- 3.2.2. **Second Planning Report:** Proposed garage will create a degree of overshadowing on the neighbouring property at certain times of the day. This will not cause undue disamenity. Condition to be added to address surface water management.  
Recommendation to grant permission.

## 4.0 Planning History

- 4.1.1. Planning Authority reg. ref. 04/25: Planning permission granted for the construction of 2 no. dwellings.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Clare County Development Plan 2017-2023 refers. The site is outside the settlement boundary, within an area designated as a “settled landscape”. Section 13.3.2.1 and policy CDP13.2 refers.
- 5.1.2. **CDP13.2:** It is an objective of the Development Plan: To permit development in areas designated as ‘settled landscapes’ that sustain and enhance quality of life and residential amenity and promote economic activity subject to:

- Conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- Selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design which are directed towards minimising visual impacts;
- Regard being given to avoiding intrusions on scenic routes and on ridges or shorelines.

Developments in these areas will be required to demonstrate:

- That the site has been selected to avoid visually prominent locations;
- That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads;
- That design for buildings and structures reduce visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.

## 5.2. EIA Screening

- 5.2.1. Having regard to nature of the development comprising the construction of a domestic garage 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. A third-party appeal against the decision of the Planning Authority to grant permission has been submitted by the resident of the dwelling to the immediate north-east of the subject site. The grounds of the appeal can be summarised as follows:
- The applicant in responding to the Planning Authority request for further information, failed to respond to the request for site contour levels and failed to indicate how surface water from the proposed garage will be managed.
  - The relocation of the proposed garage does not address overshadowing. The applicant was requested to relocate the proposed garage away from the shared boundary and reduce the height.
  - The overall scale of the proposed structure has not been addressed. The submission that the loft area is required for the proposed solar panels is not credible given that battery systems need to be located in a cool, stable environment. They are usually mounted at ground level. Email from Limerick Institute of Technology submitted.
  - The Applicants shadow analysis is inaccurate. The appellants boundary hedging is regularly maintained at a height of 1.6m. The hedging and trees provide screening for both dwellings. No overshadowing of the appellant's dwelling arises. Photos submitted.
  - Winter ponding on the applicants property has damaged the appellants hedging.

- The appellants shadow analysis is accurate and demonstrates that the shadow cast by the proposed structure will reach the appellants dwelling. 14 no. figures shown in the appeal submission.
- The proposed garage would cast a greater shadow than the existing trees on site. Photos submitted.
- It is submitted that the original and revised location will both overshadow the appellants property. Shadowing will occur every evening from the end of August through to the end of October from 5pm onwards and from the start of February to the start of April. Notwithstanding that the proposed garage has been relocated and is at a lower level, the impact will be the same. The only difference is the time period. It is submitted that the Councils conclusion that the siting and design of the garage would cause undue overshadowing to the rear of the adjacent dwelling should stand.
- The applicant indicated that road gullies will drain to the piped drain indicated at the front of his site. It is submitted that this is not the case as the drain to the rear of the two properties has never been maintained and is filled with soil and plant material. The end of this drain floods as the land drain to the south-west of the applicants site does not exist. The ponding at the rear southern corner of the applicants site has nowhere to go as it is uphill to the front roadway where the piped drain is. This causes the applicants septic tank to flood in winter months. The proposed garage will exacerbate this flooding. Photos submitted.
- The relocation of the proposed garage sites it closer to the appellants percolation area. This contravenes the 20m separation distance of SR6.
- The appellant has no objection to a garage on the applicant site, noting that such a structure exists on their property, albeit on a boundary away from the applicant. The appellant requests that the Board require the proposed garage to be located to the southern side of the applicants site.

## 6.2. Applicant Response

### 6.2.1. None on file

### 6.3. **Planning Authority Response**

- The Planning Authority is satisfied that the over-shadowing that will arise from the proposed development will not cause significant disamenity due to the size of the site.
- The proposed garage is not excessive in size.
- A condition regarding surface water management was attached to the Planning Authority decision.
- The Board is requested to grant permission.

## 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
- Surface Water Management

### 7.2. **Principle of Development**

7.2.1. Permission is sought for the construction of a detached garage with loft accommodation and PV solar panels. Following the submission of further information, the proposed garage is to be located in the north-western corner of the subject site, adjoining the rear boundary. The proposed structure has an overall height of 5.8m at the highest point of the pitched roof.

7.2.2. The subject structure appears as a standard domestic garage with loft accommodation. Such structures are not uncommon in rural areas, indeed a similar is clearly visible on the adjoining site to the north-east. 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. The appellant states that he does not object to the construction of a garage on the applicants property, only that it be moved away from the shared boundary to avoid impacts from overshadowing and surface water.
- 7.3.2. The Board will note that the applicant was requested to consider the relocation of the proposed garage “away from the site boundary” to address overshadowing of the adjoining property. The site drawing submitted to the Planning Authority shows the applicants percolation area in the south-western corner, therefore the garage cannot be located to this area as requested by the appellant.
- 7.3.3. The applicant submitted shadow drawings demonstrating that while the proposed structure will cast a shadow on the adjoining garden to the north, it will not be significant nor will it reach the adjoining dwelling. I note the appellants submission that the Applicants shadow analysis is inaccurate and not reflective of the conditions on site. I am satisfied however, that the separation distance of approx. 25m is sufficient to prevent a significant degree of overshadowing from a structure of 5.8m in height.

### **7.4. Surface Water Management**

- 7.4.1. The appellant states that insufficient information has been submitted about the applicants plans to deal with surface water run-off from the proposed garage. It is submitted that the existing surface water management of the site is inadequate and causes flooding / ponding of the appellants property. The appellant submits that the proposed garage is less than 20m from his percolation area which contravenes SR6.
- 7.4.2. With regard to the existing surface water management of the site, should it be the case that the existing dwellings are not adequately serviced, then this is a matter for the Planning Authority. I note condition no.s 4, 5 and 6 of Planning Authority reg. ref. 04/25 the parent permission for the subject two dwellings, which state as follows:
4. The entrance of site shall be piped with pipes of adequate diameter at least 300 mm and shall be connected to existing adjacent networks (where applicable). Concrete pipes shall be provided in the bed of the existing roadside drain where that drain is located under the proposed entrance / parking area. These pipes shall be of a capacity and shall be laid in a manner to ensure the continued free flow of water

and the avoidance of flooding. The drain bed shall be graded to permit the continued free flow of water and the piped length shall be backfilled and consolidated in a manner adequate to accommodate any parking of vehicles. Gullies shall be provided every 30m and a manhole shall be provided at end of culvert. The applicant/developer shall consult with the local Council road supervisor to ensure this work is carried out to the satisfaction of the Planning Authority.

5. Surface water from the site shall be prevented from running onto the surface of the public road by provision of a concrete channel or a concrete grid with sump drained to local drain or soakaway. Soakaways shall be designed and constructed to the satisfaction of the Planning Authority. A concrete channel shall be constructed along the carriageway edge.

6. Adequate provision shall be made for drainage of surface water from public road by the provision and maintenance of a concrete channel or a concrete grid with sump drained to local drain or soakaway.

7.4.3. Should the Board decide to grant permission a condition regulating surface water run-off from the proposed garage should be attached.

## 7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development in a rural 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 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, location 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 would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission 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 carried out and completed accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 10th day of September 2019, 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 garage and loft area 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.

- 3 All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

**Reason:** In the interest of traffic safety and to prevent pollution.

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Gillian Kane

Senior Planning Inspector

26 February 2020