



An
Bord
Pleanála

Inspector's Report ABP-305939-19.

Development	Permission to retain a split level detached domestic garage and storage outbuilding with lofted storage space.
Location	Capparogan, Clonaslee, Co. Laois.
Planning Authority	Laois County Council.
Planning Authority Reg. Ref.	119/196.
Applicant(s)	Sean McCrohan.
Type of Application	Retention permission.
Planning Authority Decision	Grant with Conditions.
Type of Appeal	Third Party
Appellant(s)	John Quinn.
Observer(s)	None.
Date of Site Inspection	05/02/2020.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Capparogan, approximately 3km to the north west of the zoned area of Clonaslee, Co. Laois. The site is accessed via the R422 regional road which connects Mountmellick to the east, to Clonaslee and Kinnitty, Co. Offaly to the west.
- 1.2. The site has a stated area of 0.17ha and is currently occupied by a detached dormer style house. To the north west corner of the residential site, a split-level building has been constructed. The building the subject of this retention application has a stated floor area of 80.5m² and comprises a separate garage / store to the rear with a domestic store, with a loft storage area, located to the front of the building. The structure is approximately 12.5m x 5.5m and between 5.6 and 6m in height. It is submitted that the building is used for domestic purposes ancillary to the residential dwelling on the site, with part used as a gym, reading/study area and for storage.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices to retain a split level detached domestic garage and storage outbuilding with lofted storage space at Capparogan, Clonaslee, Co. Laois. The application included the relevant plans, particulars and completed planning application form.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 5 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and

the County Development Plan policies and objectives. The report does not include an Appropriate Assessment Screening Report.

The initial Planning Report concludes that further information is required in relation to the development in terms of the nature of the use of the building, land ownership and sight distances.

Following the submission of a response to the FI request, the final planning report concludes that proposed development is acceptable. The Planning Officer recommends that permission be granted for the proposed development, subject to 5 conditions.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. **Other Technical Reports**

Western Area Office: There are 2 reports noted on the file. No objection from either.

Road Design Section: Further information required.

Following the submission of the response to the FI request, the Road Design Office advised no objection to the proposed development.

3.2.3. **Prescribed Bodies**

None.

3.2.4. **Third Party Submissions**

There is 1 no. third party objection/submission from Mr. John Quinn noted on the planning authority file. The issues raised are summarised as follows:

- There is a piece of land registered in his late father's name affected by the proposed development site.

3.2.5. **Elected Members:**

There is one submission from Cllr David Goodwin making representations on behalf of the applicant.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref: 08/79: Planning permission was granted to build a dormer dwelling, waste water treatment system, entrance and all associated site works.

PA ref: 06/1359: Permission refused to build a dormer dwelling on the site.

PA ref: 02/5: Permission refused to build a dormer dwelling and septic tank.

5.0 Policy and Context

5.1. Development Plan

The Laois County Development Plan 2017 – 2023, is the relevant policy document relating to the subject site.

Appendix 7 of the Plan deals with rural design guidance including Extensions and Garages and provides that the scale and detail of garages in particular should match the balance of the house and be subservient to it. It further submits that with larger houses, detached garages may be more suitable, located discreetly to the rear of side of the main building, and should be built with similar materials to the existing house.

5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Slieve Bloom Mountains SPA (Site Code: 004160), which has its boundary across the public road from the subject site, at a distance of approximately 11.5m to the south.

5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised reflect those raised with the PA during their assessment of the proposed development and are summarised as follows:

- The garage is constructed on the appellants property.

6.2. Applicant Response

Mr. McCrohan has submitted a response to the third party appeal advising that he has good title to all the property the subject of the planning application. It is submitted that there was an error by the mapping section in the Land Registry which has caused the confusion and advises that the appellant has no title to the land in question. It is requested that the Board withhold the making of a decision until the Land Registry has rectified the Land Registry Map Folio LS12708F.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with the County Development Plan & General Development Standards
2. Other Issues
3. Appropriate Assessment

7.1. Compliance with the County Development Plan & General Development Standards:

- 7.1.1. The subject site lies within 3km of the zoned area of Clonasee and comprises a residential site where a detached dormer house has been constructed, in accordance with planning permission under PA ref 08/79. A detached garage / outbuilding has been constructed to the rear of the house, in the north western corner of the site.
- 7.1.2. The Laois County Development Plan, 2017-2023, at Appendix 7 deals with rural design guidance including Extensions and Garages and provides that the scale and detail of garages in particular should match the balance of the house and be subservient to it. It further submits that with larger houses, detached garages may be more suitable, located discreetly to the rear of side of the main building, and should be built with similar materials to the existing house.
- 7.1.3. The building the subject of this appeal, has a floor area of 80.5m² with an overall maximum height of 6m. The building comprises a separate garage / store to the rear with a domestic store, with a loft storage area, located to the front of the building. It is submitted that the building is used for domestic purposes ancillary to the residential dwelling on the site, with part used as a gym, reading/study area and for storage. In terms of the scale of the building, I am generally satisfied that the building does not

represent a visual intrusion in the wider landscape and does not impact on the existing residential amenities of existing and adjacent properties.

7.2. Other Issues

7.2.1. Site Boundary Issue

The Board will note that the sole issue arising in the third-party appeal relates to a disagreement on the boundary of the site, and the location of part of the site within their ownership. I note the submission from the applicant, who advises that the error was made in the mapping section of the Land Registry office and is being rectified. While I acknowledge the submission of the third party, I consider this issue to be a civil matter. I am further satisfied that the applicant has presented adequate details in terms of having sufficient legal interest in the land to make the application.

However, I would be satisfied that the provision of Section 34(13) of the Planning & Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that the civil issues is rectified prior to the commencement of development on the site.

7.2.1. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.2.2. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Slieve Bloom Mountains SPA (Site Code: 004160), which has its boundary across the public road from the subject site, at a distance of approximately 11.5m to the south. The building the subject of this appeal is located approximately 46m to the north of the boundary of the SPA.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to

adjoining Natura 2000 sites. It is also not considered that the 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

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the pattern of permitted development in the area, to the provisions of the Laois County Development Plan 2017, and to the layout and design as submitted, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of adjoining properties and would be acceptable in terms of traffic safety and convenience. 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 carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 9th day of September, 2019 and 7th day of October, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to domestic garage and storage outbuilding with lofted storage space (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity.

3. The existing dwelling and domestic garage / shed 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.

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

A. Considine

Planning Inspector

17th February, 2020