



An  
Bord  
Pleanála

## Inspector's Report 308068-20

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<b>Development</b>	Construct a domestic garage
<b>Location</b>	Naomhog, Temple Hill, Carrigrohane, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	20/39057
<b>Applicant(s)</b>	Mary Ann Mulcahy
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Tony Sexton
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	8 <sup>th</sup> December 2020
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site is located in Temple Hill, approx. 1 kilometre to the northwest of Carrigrohane Village, to the west of Cork City. It is accessed via the N22 (Tralee road) and the R618 (Inniscarra road) and a local road known as Carrigrohane Road, which branches off the R618 at Leemount Cross. Carrigrohane Road is a very narrow and steep road with a poorly aligned junction with the Inniscarra Road. There is a private road which branches off Carrigrohane Road approx. 200m northwest of Leemount Cross and the site is located approx. 150m further north on this private road. It is rural area which is characterised by lands which are in agricultural or forestry use with residential development in the form of one-off houses. The private road serves four dwellings including the appeal site, which is located on the eastern side of the lane. The gradient on the lane is quite steep and there are several narrow sections.
- 1.2.** The site area is given as 0.96ha which has elevated views over the City. There is an existing house on the site which sits within a long narrow clearing and is surrounded by mature landscaping. The western boundary of the site is with the private lane and is at a lower level than the access road. At the northern end of the site, a hardstanding which is surrounded on three sides by concrete walls has been installed. The applicant's dwelling house is located to the south and occupies a central location within the site with views to the east across the rural landscape towards the city. The driveway within the site is S-shaped and descends in a northerly direction towards the site of the garage and then descends further in a southerly direction towards the house. The appellant's house is located immediately to the north of the site of the garage and is largely screened from the appeal site by mature hedgerows.

## **2.0 Proposed Development**

- 2.1.** It is proposed to construct a domestic garage with a stated floor area of 45m<sup>2</sup>. The garage would be located at the northern extremity of the site. The existing ground levels on the western side are c.2m higher than the remainder of the site of the garage and fall away to the east. Three concrete walls and a concrete floor have

been installed and it is proposed that these would form the shell of the proposed structure.

- 2.2.** There is an existing laurel green hedge (stated to be 4.6m in height) which bounds the site of the proposed garage to the north and east and the western elevation would be screened by the elevated ground level of the access road. The proposed garage would have a flat roof with an overall height of 4.1m and would be 8.7m x 8.2m. The proposed FFL would be 100.2m, which would be higher than the FFL of the main house (96.7m) but similar to the stated basement FFL of the adjoining house to the north.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to 10 conditions. These were generally of a standard type. Condition 2 restricted use to purposes incidental to the enjoyment of the dwelling. Condition 3 prohibited oversailing of the boundary. Condition 4 required the payment of a development contribution.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The initial planning report noted the submission from the appellant which related to concerns regarding the potential commercial use of structure as a car repair garage with associated nuisance and the traffic hazard associated with the blind bends and step gradient of the access road. Reference was made to the planning history stated on the planning application form which was inconsistent with the records. However, the Area Planner had noted that three walls had been constructed on site and queried how this structure related to the proposed development. It was considered that FI was required to clarify these matters. The Area Planner confirmed that there was no evidence on site of a commercial use ongoing and that the site was in use for domestic purposes only.

FI was requested on 18<sup>th</sup> March 2020 and a response was submitted on 9<sup>th</sup> July 2020. Clarification was provided regarding the planning history of the site and stated

that although permission had been granted in 1989 for a granny flat, this permission was not implemented and a subsequent application in 2004 for conversion of the car port to a granny flat was incomplete. It was confirmed that whilst works were carried out to the car port, it is being used as a domestic store. It was also confirmed that the three walls constructed at the northern end of the site will form the external walls of the proposed garage (revised drawings provided). It was further confirmed that the use will be for domestic purposes only and that there will be no new water or wastewater requirements.

It was considered that the proposal would not adversely affect the visual or residential amenities of the area. Permission was recommended subject to conditions.

### **3.2.2. Other Technical Reports**

Area Engineer – no objection subject to conditions

Roads – no objection subject to conditions.

Drainage – no objection subject to conditions.

### **3.3. Prescribed Bodies**

**Irish Water** – no report.

### **3.4. Third party observations**

The observation from the appellant is generally similar to the grounds of appeal. Issues raised principally related to potential use of garage as a commercial car-repairs business with associated nuisance, loss of screen planting, close proximity to boundary (which is subject to a legal dispute) and traffic hazard associated with the narrow width and steep gradient of the road serving the site and to the presence of blind spots.

## **4.0 Planning History**

**1177/68** – permission granted for bungalow on site.

**1130/77** – permission granted for first floor house expansion and car port extension.

**2883/88** – Permission granted for 2-storey granny flat extension to replace car port and store. This permission was not implemented.

**04/6273** – incomplete application for conversion of car port to granny flat. Applicant advised in FI Response that this had sought permission to convert 2 car ports and a store to a granny flat as the previous permission for a granny flat was not implemented. It was stated that whilst some historic works took place, the store is still being used for domestic purposes only.

## **5.0 Policy Context**

**5.1.** Although the site is located within the area which is presently governed by Cork City Council, the site was formerly within the area governed by Cork County Council. The relevant plans for the area are therefore Cork County Development Plan 2014 and Ballincollig to Carrigaline Municipal District Local Area Plan 2017.

### **5.2. Cork County Development Plan 2014**

**5.2.1.** The site is located within the **Metropolitan Greenbelt Area**, which is described in Chapter 4 (relating to rural housing and rural housing policy areas) as a rural area under strong urban influence (4.3.5). The purpose of the greenbelt is stated to be to preserve the identity of the City within a ring of distinctive, largely unspoilt hillsides and ridges (4.5.5).

**Objective RCI 5-2 (a)** seeks to maintain the green belt with the purpose of retaining the open and rural character of lands between and adjacent to urban areas, maintaining the clear distinction between urban areas and the countryside.

**RCI 5-3** seeks to preserve the character of the Metropolitan Greenbelt and to reserve it generally for use as agriculture, open space, recreation uses and protection/enhancement of biodiversity of those lands that lie within it.

**5.2.2. Chapter 13 Green Infrastructure and Environment** – contains further policies on greenbelts. Section 13.8 – Prominent and Strategic Metropolitan Cork Greenbelt Areas relates to particular parts of the greenbelt that are regarded as being of strategic importance and require the highest degree of protection as they are made

up of prominent open hilltops, valley sides and ridges. These areas are labelled MGB1 on Figure 13.3

**5.2.3.** The site is zoned **GI 8-1 Prominent and Strategic Metropolitan Greenbelt Areas requiring Special Protection** the zoning objective for which is

Protect prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Greenbelt and those areas that form strategic, largely undeveloped gaps between the main Greenbelt settlements (Areas designated as MGBT1).

### **5.3. Natural Heritage Designations**

Cork Harbour SPA (004030) and Great Island Channel SAC (001058) lie approx. 10km and 16km respectively, to the south east.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The third-party appeal was submitted by neighbouring resident to the north. The main points raised may be summarised as follows:

- **Traffic hazard** – The site is located on a skew bend on a quiet, narrow cul-de-sac. There is a blind spot at the intersection of the site entrance with the lane. There is a further blind spot at the entrance to Leighdale Cottage which is used by the Girl Guides all year round, accommodating 24 girls. Both of these blind spots create a dangerous traffic hazard. The sightlines are limited, and the gradient is very steep at the junction of Temple Hill and Carrigrohane Road.
- **Unauthorised use and development** – notwithstanding the failure of the P.A. to note the operation of a commercial car repair business from the premises, it is confirmed that this use has indeed commenced. The applicant has already commenced construction of a commercial garage at the site of the proposed garage and the site is being used for the parking, storage and repair of commercial vehicles at the location of the proposed garage. An

unauthorised yard has also been constructed on the lower eastern side of the site, which is within the red line boundary. Vegetation has also been cleared and a 6ft heavy-duty black industrial security fence has been erected at the legally disputed northern boundary. It is submitted that these works and use are unauthorised, and the Board is precluded from granting permission in these circumstances.

- **Nature of proposed development** – The proposed structure with a stated floor area of 45m<sup>2</sup> and 4.1m in height has a commercial character with a large door. It also appears that the garage will require additional excavation over and above that already cleared to facilitate the development. Temple Hill is known as the steepest road in Cork and is only fit for single vehicle use. It is, therefore, considered to be most unsuitable for commercial traffic.
- **Potential encroachment** – it is stated that the boundary line is the subject of a current legal dispute between the parties. The appellant is concerned that the illegal garage may encroach onto his property and that the boundary is much further from the applicant's house than the appellant's. No consent has been given as required by the 2001 Regulations.

## 6.2. Planning Authority Response

The P.A. has not responded to the grounds of appeal.

## 6.3. First party response to grounds of appeal

The first party's engineer responded to the grounds of appeal on the 29<sup>th</sup> of September 2020. The response was mainly in the form of a rebuttal of the grounds of appeal. The following points are noted:

- **Unauthorised development** – the applicant seeks to use the as-built walls as the exterior of the proposed structure. The P.A. has confirmed that there have been no complaints or enforcement action with regard to alleged unauthorised development at the site. It was confirmed that the intention of the applicant is to use the proposed garage for domestic purposes only and accepts the P.A.'s condition restricting use in this respect.

- **Traffic hazard** – the garage will be used for domestic purposes only and no additional traffic will be generated by the proposed development.
- **Height and size** – The garage with dimensions of 6.8m x 6.3m is small and is capable of accommodating two small vehicles only. The garage door is a roller shutter door of a standard nature.

## 7.0 Assessment

It is considered that the main issues arising from the appeal are as follows: -

- Impact on visual amenity
- Unauthorised use and development
- Impact on residential amenity
- Traffic hazard
- Environmental Impact Assessment
- Appropriate Assessment

### 7.1. Impact on visual amenity

- 7.1.1.** The site is located within a strategically important part of the Metropolitan Greenbelt, designated MGBT1, which is afforded the highest level of protection. The objective is to protect prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Greenbelt and those areas that form strategic, largely undeveloped gaps between the main Greenbelt settlements. The site is on elevated ground on a wooded hillside overlooking the Lee Valley and surrounding countryside, and as such, requires such protection. However, the site of the proposed garage is effectively screened from adjoining lands and the surrounding countryside by mature vegetation including a dense and tall hedgerow. The design of the development, whereby it is set into the hillside at an angle, also helps the building to be integrated into its surroundings and is readily absorbed by the landscape.
- 7.1.2.** The scale and design of the proposed garage is considered to be appropriate to its location. The size of the proposed garage, at 45m<sup>2</sup>, is not considered to be



excessive on a rural domestic site. The internal width is stated as 6.3m wide and 6.8m deep, which would accommodate two cars. The provision of a flat roof and a roller shutter door is of a standard nature. The stated FFL is more-or-less equivalent to that of the appellant's house (basement level) and is below that of the ground floor of that house but is c.300mm above the ground level of the main house on the site. Thus, the proposal is designed to fit into the hillside.

- 7.1.3.** It is considered, therefore, that the proposed garage, by reason of its scale and design, and the effective screening provided by the landform and mature vegetation, would not detract from the character of the hillside and would not injure the visual amenities of the area.

## **7.2. Unauthorised use and development**

- 7.2.1.** The appellant has raised issues regarding an alleged use of the site for commercial purposes and an alleged future use of the proposed garage for an unauthorised use of car repairs. It was alleged that the applicant had commenced a use comprising the parking, storage and repair of commercial vehicles and the construction of a further yard on the lower section of the site. The planning authority put these matters to the applicant as part of the FI request. The applicant's agent confirmed that there is no unauthorised use of the site and that the intended purpose of the garage is for domestic purposes. This point was repeated in the response to the grounds of appeal, and the applicant has also confirmed that there is no objection to the condition attached to the P.A. decision to restrict the use of the garage to domestic purposes only.
- 7.2.2.** The appellant claims that the proposed garage is of a commercial nature, but the Board will note from the previous section (7.1) that the scale and design of the structure is consistent with that of a domestic garage. It is further alleged that the applicant had requested ESB Networks to install another electricity pole to support overhead voltage lines to facilitate movement of commercial vehicles, and that the applicant had erected a heavy duty black industrial gauge steel security fence on the northern boundary. It is submitted that the Board is precluded from granting permission given the existing unauthorised development on the site.

**7.2.3.** I note that the Area Planner's report had observed that there was no indication of any unauthorised use being conducted on the site at the time of inspection. I can also confirm that I did not observe anything to suggest that a car repair business or any other type of commercial business was being conducted from the site at the time of my inspection. However, I observed that there was a black steel fence folded up against the wall of the future garage, that there is an electricity supply to the structure which appears to be somewhat heavy duty and that there is a security camera attached to the wall. Notwithstanding this, it is reiterated that there was no indication of any commercial operation being conducted or any vehicles parked on the site other than two domestic related cars. The Response to the grounds of appeal indicate that it is the understanding of the first party that the ESB carried out works for the purposes of line management due to the proximity of foliage to the existing overhead line.

**7.2.4.** The applicant is seeking to incorporate the existing walls into the proposed garage structure and no substantive evidence of an unauthorised use has been provided. As such, it is considered that the Board is not precluded from granting permission and that should it be minded to grant permission, a condition should be attached restricting the use to domestic purposes associated with the dwelling house.

### **7.3. Residential Amenity**

**7.3.1.** The concerns raised by the appellant related principally to noise and disturbance and general nuisance associated with the use of the proposed garage for the purposes of a commercial business including the movement and repair of cars. As discussed at 7.2 above, there is no evidence of the operation of such a use and the applicant has confirmed that the intended use of the garage is for domestic purposes and is happy to accept a condition to this effect. The planning authority has also confirmed that there is no current or previous enforcement investigation relating to the site. Should such a use commence on the site, the matter would become an enforcement issue which would come under the remit of the planning authority. It is considered, therefore, that a condition restricting the use of the structure to domestic purposes would be necessary for the protection of the residential amenities of the area.

#### **7.4. Traffic hazard**

- 7.4.1.** The appellant has pointed out that the gradient of Carrigrohane Road is very steep, narrow and is poorly aligned and that the private lane serving the site is completely unsuitable for additional traffic. However, these concerns seem to relate to the alleged unauthorised commercial use. It is noted that the proposed garage is for domestic use for a single dwelling house and that there is no proposed change of use that would generate additional traffic. Although the roads serving the site are poorly aligned and substandard, the proposed development would not give rise to additional turning movements that would result in a traffic hazard.

#### **7.5. Other matters**

- 7.5.1.** The appellant has made reference to a current legal dispute regarding the northern boundary of the site, which is the common boundary immediately adjacent to the proposed structure. It is submitted that

“it may well be the case that the location of the current incomplete commercial garage structure will encroach on my boundary”

- 7.5.2.** This is, however, considered to be a civil matter to be resolved between the parties, having regard to the provisions of section 34(13) of the Planning and Development Act 2000, (as amended).

#### **7.6. Environmental Impact Assessment**

Having regard to the nature, size and location of the proposed development, 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.

#### **7.7. Appropriate Assessment**

Cork Harbour SPA (004030) and Great Island Channel SAC (001058) lie approx. 10km and 16km respectively to the southeast. There are no known hydrological links to the protected sites. Given the scale and nature of the development, together with

the distances involved, it is considered that no appropriate assessment issues are likely to arise.

## **8.0 Recommendation**

8.1 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 policies and objectives as set out in the Cork County Development Plan 2014-2020, to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. 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 to the planning authority on the 9<sup>th</sup> day of July 2020 and by the further plans and particulars received by An Bord Pleanála on the 29<sup>th</sup> day of September 2020, 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 garage shall be restricted to domestic use only and not for any commercial, habitation or agricultural uses (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

**Reason:** In the interest of residential amenity.

3. The existing finishes of the proposed garage (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. The existing laurel hedge on the northern, western and eastern boundaries of the garage site, shown on Drawing No. HB-LA-D04 as submitted to the planning authority on the 29<sup>th</sup> day of January 2020 and Drawing Numbers HB-LA-D01, HB-LA-D02 as submitted to the planning authority on the 9<sup>th</sup> day of July, 2020 shall be retained and if damaged, shall be replaced within the first planting season following substantial completion of external construction works.

**Reason:** In the interests of residential and visual amenity.

6. The construction of the development shall be managed in accordance with a Construction Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of public safety and residential amenity.

7. 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.

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Mary Kennelly  
Senior Planning Inspector

14<sup>th</sup> December 2020