



An
Bord
Pleanála

Inspector's Report ABP-308164-20

Development	Retention of conversion of domestic garage/store to ancillary detached laundry/study/hobby studio
Location	Rerrin, Bere Island, Beara, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/256
Applicant(s)	Tony & Nora Hall
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Tony & Nora Hall
Observer(s)	Eileen O'Neill
Date of Site Inspection	December, 2020
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site of the proposed development is at Rerrin on the east side of Bere Island in West Cork. It forms part of the Old Schoolhouse property, with the school having previously been converted for residential use. There is a boathouse at the north-eastern section of the site. The development the subject of the appeal is located at the south-western end of the site adjoining the public road. The application drawings reflect the external appearance of the structure.

2.0 Proposed Development

2.1. The proposed development would comprise the retention of the conversion of a domestic garage/store to ancillary detached laundry/study/hobby studio. The floor area of the structure to be retained is stated to be 83.35 square metres.

3.0 Planning Authority Decision

3.1. Decision

On 15th August 2020, Cork County Council decided to refuse permission for the proposed development for three reasons relating to contravention of conditions attached with a previous grant of planning permission, non-compliance with development plan provisions, and the unacceptable risk of pollution arising from effluent treatment.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history, development plan provisions, the Area Engineer's report, and a third party submission. Reference was made to a range of enforcement issues. It was submitted that the existing structure was not a garage. The potential for the structure to be used for residential or letting purposes was noted. Concern was raised about the precedent that would result from any grant of permission. A refusal of permission for three reasons was recommended.

The Senior Executive Planner concurred with the Planner's recommendation.

3.2.2. Other Technical Reports

The Area Engineer requested details on the wastewater treatment system proposed to serve the development.

The Liaison Officer submitted "No comment".

3.3. Third Party Observations

An objection to the proposal received from Eileen O'Neill raising concerns relating to the use of the structure for residential purposes, the annexation of an adjoining layby, and unauthorised development at this site.

3.4. Unsolicited further information was submitted by the applicants on 27th July 2020 in response to the third party submission.

3.5. Following this submission, the Planner maintained the recommendation to refuse permission for three reasons. The Senior Executive Planner concurred with the Planner's recommendation.

4.0 Planning History

P.A. Ref. 91/2103

Permission was granted for the conversion, extension and renovation of the schoolhouse to a house.

ABP Ref. PL 04.244561

Permission was granted by the Board for a domestic boathouse and permission was refused for a single-storey extension to the garage/store on the grounds of traffic safety.

ABP Ref. PL 88.246657

Permission was granted by the Board for a single-storey extension to the west side of the existing domestic garage/store and permission for the construction of a new entrance and roadside boundary. Condition 4 required the permitted garage/store to be used solely for purposes ancillary to the enjoyment of the main dwelling and not to be used for commercial, trade or business purposes.

5.0 Policy Context

5.1. Cork County Development Plan 2014

Islands

Objectives include:

RCI 10-3: Development Proposals on the Islands

- a) Support sustainable development proposals that are compatible with environmental and landscape sensitivities as well as nature conservation designations pertaining to the islands; and contribute to the long term economic and social development of the islands.
- b) Prioritise development that contributes to retention of the year round population on the islands, that has a clear and identifiable economic and social benefit (that endures beyond the construction phase), and that is compatible with the capacity of the local community to accommodate it.
- c) Exclude the development of individual second homes, instead encouraging proposals for the sensitive renovation and conservation of existing disused or derelict dwellings in accordance with the provisions of objective RCI 81.
- d) Ensure that new development of any kind is sympathetic to the individual form and character of the islands' landscapes and traditional building patterns.

5.2. Appropriate Assessment

The site of the proposed development is within c 600 metres of the nearest point of the Beara Peninsula Special Protection Area (Site code 004155). The qualifying interests are Fulmar and Chough. The conservation objectives are to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Having regard to the nature, limited scale, and location of the proposed development, the nature of the receiving environment, the lack of any direct pathway, and the significant separation distance to the nearest European site, it is concluded that no Appropriate Assessment issues arise as 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. An appropriate assessment is not therefore required.

5.3. **EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of the appeal may be summarised as follows:

- The proposed development made no reference to any granny flat.
- The proposed development is not and will not be an independent residential unit as it cannot be occupied as stand-alone residential accommodation.
- The existing septic tank has served the property for many years without issue. The proposal will not result in any increase in loading on the septic tank as there are no additional bedrooms.
- The appellants noted that Condition 4 of the decision under ABP Ref. PL 88.246657 specifically omitted any mention of the exclusion of human habitation and it was understood that this allowed them to convert the garage. Since receipt of the Council's enforcement letter (Ref. SKB180011), the building has not been used for human habitation.
- The proposed development does not conflict with planning policies.

In support of the appeal the appellants provided details on the planning history relating to the site and outlined the planning situation on the site from their perspective. The submission included comment on the third party submission made to the planning authority. The Board was requested to review a planning decision by the Council under P.A. Ref. 16/00395 and a Board decision under ABP-300708-18.

6.2. **Planning Authority Response**

The planning authority submission reiterated the content of the Planner's report.

6.3. **Observations**

The observer raises concerns relating to the appellants' landownership, how the property developed following the acquisition of the property and the issuing of planning permission, and the change of use of the garage for human habitation. Maps and photographs were attached.

7.0 **Assessment**

7.1. Following my internal inspection of the existing building in which it is proposed to retain a laundry/study/hobby studio, I note for the Board that what is proposed to be retained and what exists are not the same. The following is noted:

- At ground floor level, the library/study area is a living room, the laundry/utility is a kitchen, and the w.c. is a toilet and shower room.
- The first floor level is open plan and is unfurnished at present.

To all intents and purposes, the existing structure presents itself as independent living accommodation.

7.2. It is evident from the above that the Board is in no position to grant permission for retention of something which does not exist. What exists appears to be unauthorised. The use to which the building is being put is residential use. Condition 4 of the Board's previous decision under Appeal Ref. PL 88.246657 relating to an extension to the side of the garage required the permitted garage/store to be used solely for purposes ancillary to the enjoyment of the main dwelling and not to be used for commercial, trade or business purposes. The use to which the building is being put is not a use for purposes which are 'ancillary' to the enjoyment of the main dwelling on this site. The Oxford English Dictionary defines 'ancillary' as "providing support". I note that the term 'ancillary' is not defined in the Planning Act. However, it

is reasonable, in my opinion, to determine that use as a support to the enjoyment of the main dwelling does not include use as a separate dwelling, i.e. for purposes as a building in which one may reside.

7.3. I, therefore, submit that the proposed development relates to a development the use of which is unauthorised, that it is clearly not the development purported to seek retention, and that it would be inappropriate for the Board to consider a grant of permission in such an instance.

7.4. Finally, I consider that there is a rationale behind the restriction of uses associated with this building. The restriction of such a use to ancillary use is in support of the proper planning and sustainable development of the area because the development of a second dwelling on this confined site, inter-connected with and interdependent on the services, amenities, curtilage, etc. of the site, could not be understood to be orderly development and of a type which could reasonably be sustained into the future.

8.0 Recommendation

8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

On the basis of the planning application being made for the retention of the conversion of an existing domestic garage/store to ancillary detached laundry/study/hobby studio and to the subsequent conversion of this garage and the provision of residential accommodation within at present, it appears to the Board that the proposed development relates to a development the use of which is unauthorised as a residential building. 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.

Kevin Moore
Senior Planning Inspector

16th December 2020