



An
Bord
Pleanála

Inspector's Report ABP-309358-21.

Development	Retain as constructed, domestic garage/store which varies from granted permission P18-604 plus all ancillary site works.
Location	Brickhill East, Cratloe, Co. Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	20/849.
Applicant(s)	Anthony & Valerie McInerney.
Type of Application	Retention permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Anthony & Valerie McInerney.
Observer(s)	Mary Carroll.
Date of Site Inspection	05/06/2021.
Inspector	A. Considine.

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1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Brickhill East, and to the west side of the L-3038 local road in the village of Cratloe in south-east Co. Clare.
- 1.2. The site has a stated area of 0.242 hectares and is currently occupied by a single storey / split level house and the shed the subject of this appeal. The site slopes down from the public road to the east, towards the west and rear of the site and is bound by trees and hedgerows. The site levels drop towards the rear of the site. The front boundary of the site comprises a stone wall and large wooden gates.
- 1.3. To the north of the site, there is a Nursing Home, and this site lies above the level of the subject appeal site.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices to retain as constructed, domestic garage/store which varies from granted permission P18-604 plus all ancillary site works all at Brickhill East, Cratloe, Co. Clare.
- 2.2. The application included plans, particulars and completed planning application form.
- 2.3. The shed the subject of this appeal has a stated floor area of 166.63m².

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following reasons relating to the following:

1. The development proposed for retention is located on lands zoned Existing Residential in the Cratloe Settlement Plan as contained in the Clare County Development Plan 2017-2023 (as varied). Having regard to the objective for lands with this zoning, the scale, height and finishes of the overall structure, it is considered that the development proposed for retention would be out of keeping with existing permitted development at this location, would detract from the visual and residential amenities of the area and would materially

contravene the land use zoning objective at this location. The development is therefore contrary to Objective CDP19.3 'Compliance with Zoning' of the Clare County Development Plan 2017-2023 (as varied) and contrary to the proper planning and development of the area.

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, third party submissions, planning history, including enforcement, and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The Planning Report acknowledges that the principle of the proposed development would generally be acceptable but raises concerns in relation to the height, scale and design of the structure the subject of the application. The report notes that while gutters have been provided on the structure, no downpipes have been fitted and there is no active management of surface water runoff from the shed, giving concerns in terms of the septic tank and potential public health issues. The report further considers that the development contravenes the objective for the lands zoned Existing residential and that the retention of same would have a negative impact on the amenities of the area. The Planning Officers report also notes further development on the site which may not constitute exempted development under the provisions of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

The report concludes that the proposed development is not acceptable, and the Planning Officer recommends that permission be refused as per the reason detailed above in section 3.1 of this report. This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

None.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Submissions

There is 1 no. third party objection/submission noted on the planning authority file.

The issues raised are summarised as follows:

- Raises issues with what has actually been permitted and what has not on the site.
- The development the subject of this application is very similar to the works refused under previous application PA ref 16/336.
- The area is zoned residential and is also on the route of the very popular and much used amenity area Cratloe Woods.
- The development is out of character with all other developments in the area and there is a business being carried out from the premises, involving truck movements, sometimes during daylight hours but more often at evening/night times.
- Parking of low loaders, long vehicular trailers and tankards outside and on the public road occurs regularly.
- The development is not in accordance with the proper planning and development of the area and materially contravenes the land use objective at this location.

4.0 Planning History

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

PA ref: 16/336: Permission refused to construct domestic garage / store plus all ancillary site works for the following reason:

As per the provisions of the South Clare Local Area Plan 2012-2018, the subject site is located on lands zoned as 'Existing Residential' where it is the objective of the Council to provide for the use of land for existing residential development and uses that enhance existing residential communities. Having regard to the floor area of the domestic garage/store as proposed and the maximum roof ridge height as proposed, it is considered that the development as proposed would be out of keeping with existing permitted development at

this location, would detract from the visual and residential amenities of the area and would materially contravene the land use zoning objective at this location and would not be in accordance with the proper planning and development of the area.

The applicant had originally sought permission for a shed with a floor area of 170m² and an overall height of 9m. Following a request for further information, the applicant reduced the height of the shed to 7m. The scale of the shed was required to park the applicants lorry overnight.

PA ref: 17/423: Permission granted to construct domestic garage/store plus all ancillary site works.

The permission as granted provided for a shed with a floor area of 167.22m² and a maximum roof height of 5.6m. The location of the permitted shed was to the rear of the site. The size of the shed was permitted on the submission of the applicant that it was required to keep his own truck and for private use, and therefore not commercial.

PA ref: 18/604: Permission granted for alterations to previously granted permission P17/423 for domestic garage/store. These alterations are for change of design and location plus all ancillary site works.

This permission was for a shed with a stated floor area of 96.28m² and with an overall height of 5.4m. The location of this shed was to

Enforcement

UD20-067: Warning letter issues in relation to Condition 1(a) of permission P18/604. The garage was not constructed in accordance with the plans and particulars received in respect of said application.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The Clare County Development Plan 2017 – 2023, is the relevant policy document relating to the subject site. The site is located within an area zoned Existing Residential in the Cratloe Settlement Plan where it is the stated objective 'To

conserve and enhance the quality and character of the areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the immediate area and uses that enhance existing residential communities. Existing residential zoned land may also provide for small-scale home-based employment uses where the primary residential use will be maintained.'

- 5.1.2. Objective CDP19.3 requires that development proposals comply with the zoning of the subject site in the settlement plans and local area plans.

5.2. **Natural Heritage Designations**

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 1.5km to the west of the site. The River Shannon and River Fergus Estuaries SPA (Site Code: 004077) is located approximately 2.4km to the south of the site.

The Fergus Estuary and Inner Shannon, North Shore pNHA (Site Code: 002048) lies approximately 2.4km to the south, the Garrannon Wood pNHA (Site Code: 001012) lies approximately 0.9km to the south east and the Woodcock Hill Bog NHA (Site Code: 002402) lies approximately 3km to the east of the subject site.

5.3. **EIA Screening**

Having regard to nature and scale of the development, there is no real likelihood of significant effects on the environment arising from the proposed development in terms of EIA. 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 first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal is summarised as follows:

- The shed for retention is similar to a previously permitted domestic garage / store on the site P18/604 refers, built on basically the same footprint but lengthened and widened slightly to accommodate existing difference in ground levels. The cost of having to 'fill' was prohibitive.
- The visual aspect of the structure is minimal, only visible to the public from the front gate of the property.
- The garage / store could not possibly be used for commercial purposes due to narrow access along the northern boundary, and impossible turning to reach the existing store due to drop in levels. The lower store is being used to store the applicant's private collection of classic and vintage cars.

There are enclosures with the appeal, and it is asked that the Board grant permission for the retention of the mobile home.

6.2. Planning Authority Response

The Planning Authority submitted a response to the first party appeal requesting that the Board uphold their decision and advising no further observations.

6.3. Observations

There is one observation noted on the submitted appeal from Ms. Mary Carroll. The observation reflects the comments made to the PA during their assessment of the proposed development, and as summarised above in section 3.2.4 of this report. The observation raises the following concerns:

- Permission has been refused under 16/336 for a similar development.
- The development is out of character with the area and there is a business being carried out from the premises involving truck movements, during the day and evening/night time.
- The extent of site coverage is excessive with large areas of the site under gravel. The location of the septic tank is questioned.
- Issues raised regarding the basement constructed on the site.

- Liquids are being stored on site and transferred to containers which raises a question of potential pollution concerns.

There are a number of enclosures with the observation, and it is requested that permission be refused.

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. Principle of the development
2. Planning History
3. Other Issues
4. Appropriate Assessment

7.1. **Principle of the development:**

- 7.1.1. The site is located within an area zoned Existing Residential in the Cratloe Settlement Plan where it is the stated objective 'To conserve and enhance the quality and character of the areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the immediate area and uses that enhance existing residential communities. Existing residential zoned land may also provide for small-scale home-based employment uses where the primary residential use will be maintained.'
- 7.1.2. The proposed development seeks to retain a domestic garage / store which varies from a previously permitted development under PA ref 18/604. In principle, it would seem that a grant of planning permission could be considered both acceptable and appropriate. However, the Board will note the concerns of both the Planning Authority and the third-party observer in the context of the scale of the 'domestic garage / store' as constructed on the site. I would advise that I was unable to gain

access to the rear of the site on the date of my site inspection, but the Board will note that there are a number of photographs on the planning file which will facilitate a full consideration of the proposal before the Board.

7.2. Planning History

- 7.2.1. I consider it appropriate to address the planning history associated with this appeal site. The applicant / appellant originally sought permission, under PA ref 16/336, to construct a shed with a floor area of 170m² and an overall height of 9m. Following a request for further information, the applicant reduced the height of the shed to 7m. The scale of the shed was required to park the applicants lorry overnight. Permission was refused by the Planning Authority due to the floor area and ridge height proposed, and considered that the development would be out of keeping with existing permitted development at this location, would detract from the visual and residential amenities of the area and would materially contravene the land use zoning objective at this location and would not be in accordance with the proper planning and development of the area. This decision was not appealed to the Board.
- 7.2.2. Under PA ref: 17/423, Clare Co. Co granted permission to construct domestic garage/store with a floor area of 167.22m² and a maximum roof height of 5.6m. The location of the permitted shed was to the rear of the site. The size of the shed was permitted on the submission of the applicant that it was required to keep his own truck and for private use, and therefore not commercial. Under PA ref: 18/604, Clare Co. Co. again granted permission for alterations to previously granted permission P17/423 for domestic garage/store, including the relocation of the shed to the north of the house (the location of the current shed the subject of this appeal). This permission was for a shed with a stated floor area of 96.28m² and with an overall height of 5.4m.
- 7.2.3. While I acknowledge the first party appeal, I would not accept that the shed as constructed, and which has a stated floor area of 166.63m², and a full 70.35m² increase in floor area from the previously permitted domestic garage/store, can reasonably be considered as 'similar to that permitted, or indeed, only slightly lengthened and widened. The as permitted shed had a width of 6m and a total length of 18.3m while the shed as constructed has a width of approximately 9.6m and an overall length of 22m. The shed could note reasonably be considered to be domestic

in scale and notwithstanding the on-site levels, I do not accept that a grant of retention permission in this instance is either acceptable or appropriate.

- 7.2.4. While I acknowledge the first party's indication that the shed is used for the storage of vintage cars, and the PA Planning Officer noted that there were cars in the shed on the date of her site inspection, the design, scale and finishes of the structure do not represent a residential scale development. I also noted that a lorry was parked on the road adjacent to the shed on the date of my site inspection. In addition, I would not accept the submission that the shed is not visible from the public road. The scale and massing of the building is clearly evident in this residential area when travelling north on Gallows Hill Road.
- 7.2.5. In this regard, I consider that the development does not represent a development which is in keeping with the residential character of the wider area and as such, would contravene the zoning objective afforded to the site.

7.3. **Other Issues**

7.3.1. **Roads Issues**

The Board will note the concerns raised by the third party in relation to the parking of commercial vehicles on the road outside the boundary of the property. This is not a matter for the Board.

7.3.2. **Other Development at the Site**

I note the concerns of both the PA and the third party in relation to other works carried out at the subject site. This is not a matter for the Board.

7.4. **Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code: 002165) which is located approximately 1.5km to the west of the site. The River Shannon and River Fergus Estuaries SPA (Site Code: 004077) is located approximately 2.4km to the south of the site.

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

- 8.1.1. Having regard to the information submitted in support of the appeal and development the subject of retention, together with all other matters and details on the file, I recommend that planning permission be refused for the proposed development for the following stated reasons.

9.0 Reasons and Considerations

1. The development proposed for retention is located on lands zoned Existing Residential in the Cratloe Settlement Plan as contained in the Clare County Development Plan 2017-2023 (as varied). Having regard to the objective for lands with this zoning, the scale, height and finishes of the overall structure, it is considered that the development proposed for retention would be out of keeping with existing permitted development at this location, would detract from the visual and residential amenities of the area and would contravene the land use zoning objective at this location.

The development is therefore contrary to Objective CDP19.3 'Compliance with Zoning' of the Clare County Development Plan 2017-2023 (as varied) and contrary to the proper planning and development of the area.

A. Considine
Planning Inspector
07/06/2021
ABP-309358-21