



An
Bord
Pleanála

Inspector's Report ABP-309576-21

Development	Alteration from thatched garden store/smoke house to home office/garden room at protected structure (R.P.S. No. 114).
Location	Seaview Cottage, Dock Road, Dunmore East, Co Waterford.
Planning Authority	Waterford City & County Council
Planning Authority Reg. Ref.	20/834
Applicant(s)	Heather Whitley
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant(s)	Heather Whitley
Observer(s)	None
Date of Site Inspection	08.06.2021
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located on the east side of Dock Road in the village of Dunmore East in east Co. Waterford.
- 1.2. There is a single-storey thatched cottage on site (appearing as two separate cottages, Seaview Cottage and Crab Cottage, from the public road) located in a terrace of same. There is a significant area of private open space to the rear of the cottage with extensive views directly over the harbour and bay. The private open space area is paved and there is some planting and hedging. The structure subject of the application is set away from the house in the north west corner of the site.
- 1.3. The site has an area of 0.1 hectares.

2.0 Proposed Development

- 2.1. Permission is sought for the change of use of the thatched garden store/smoke house to home office/garden room incidental to the main house on the grounds of a protected structure (RPS No. 114).
- 2.2. The subject structure has a floor area of 23sqm and a height of 3.95 metres. It has a plaster finish with blue timber sliding doors and a thatched roof. Its external finish matches the house.
- 2.3. Further information was sought as follows: (i) fenestration proposals as the submitted plans and particulars indicated no natural light to serve the proposed office use and, (ii) the submitted site layout plan indicated a number of other works to be carried out e.g. decommissioning septic tank, proposed extension, new gate. The further information response stated that there are fully glazed windows and doors behind the timber doors and the other works all refer to notes for previous planning applications for which the site layout plan was also used.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused by Waterford City & County Council for the following reason:

1. On the basis of the details provided with the planning application the proposed development is facilitated by unauthorised works, namely the installation of windows and doors in the structure the subject of this planning application and a use not authorised by the governing planning permissions, reference numbers 03/116 & 07/1803, therefore it is the opinion of the Planning Authority that the development would facilitate the consolidation of these unauthorised works and would materially contravene the terms and conditions of planning permission reference numbers 03/116 and 07/1803.

3.2. Planning Authority Reports

- 3.2.1. Two Planning Reports form the basis of the planning authority's decision. On foot of the further information response, the second report considered that, as there is no permission for the existing windows and doors behind the timber doors, 'retention permission is required and they cannot be considered under the current proposal'. Some amendments were made to the recommended reason for refusal, but the general reason is as recommended.

3.2.2. Other Technical Reports

Conservation Officer – No issue with the change of use in principle. However, further information recommended in relation to proposed fenestration and doors. No report was received on foot of the further information response.

3.3. Prescribed Bodies

None.

3.4. **Third Party Observations**

An observation was received from Shane Statham and Trudi O’Leary. No address appears to have been provided for the observers. The main points made can be summarised as follows:

- Submitted drawings state the existing septic tank is to be abandoned and replaced with a pumping system to connect to the mains. This should have been previously carried out as permitted under P.A. Reg. Ref. 07/1803. The observers query whether there is permission from Irish Water.
- Query as to the storm run-off flow given the extent of the hard standing area.
- Submitted drawings state there will be a new gate and entrance formed. No drawings were submitted, and this should have been advertised.

4.0 **Planning History**

There is a substantial planning history on site. The two applications specifically referenced in the grounds of appeal are as follows and they are expanded upon in Section 7.1 of the Assessment.

P.A. Reg. Ref. 03/116 / ABP Reg. Ref. 24.202993 – Permission was granted in 2003 for the indefinite retention and completion of store in place of demolished smoke house and indefinite retention of oil tank and enclosure in the grounds of RPS No. 114.

P.A. Reg. Ref. 07/1803 – Permission was granted in 2008 to install a toilet within the existing garden store in the grounds of RPS No. 114.

5.0 **Policy Context**

5.1. **Waterford County Development Plan 2011-2017**

- 5.1.1. Following the amalgamation of Waterford County Council and Waterford City Council in 2014, the lifetimes of the existing development plans within the amalgamated council area were extended. The 2011-2017 County Development Plan remains in

effect until a new City and County Development Plan is prepared following the making of the Regional Spatial & Economic Strategy.

- 5.1.2. Volume 2 – The Map Booklet of the Plan includes Dunmore East. The site is in an area zoned ‘R1 – Protect amenity of existing residential development and provide new residential development – medium density’. Protected structures are also identified at this location. The site contains RPS No. 114 (NIAH Reg. No. 22817037), ‘Sunview/Crab Cottage’ and is identified as a ‘Thatch house’. Coole Cottage, adjacent to the north west, is also a protected structure, RPS No. 104.

5.2. Natural Heritage Designations

- 5.2.1. The closest Natura 2000 site is River Barrow and River Nore SAC (Site Code 002162) approx. 3.2km to the north of the site. The closest heritage area is Dunmore East Cliffs NHA (Site Code 000664) adjacent to the north and east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

The main points made can be summarised as follows:

- Seaview Cottage is a protected structure and a synopsis of previous planning applications on site is set out.
- The plans submitted with 03/116 and 07/1803 are the same as those submitted with the current application. They showed inward opening doors on the front elevation while the doors fitted are sliding doors. Aesthetically, the external appearance is not materially different. From a planning point of view the external doors are not at odds with the design of the originally permitted doors. The structure is as constructed and completed in 2003.
- The windows and doors behind the sliding timber doors were in place at the time of granting 07/1803. No issue arose when the planning officer visited the site. 23sqm does not meet any minimum standard for habitable purposes. The applicant’s grandchildren have played in it, but this would not be a material

breach of previous conditions. More recently it has been used for exercise or reading, but never for habitable purposes or advertised as such.

- Drawings submitted under 07/1803 / 03/116 were not questioned. The installation of the doors and windows were internal to the structure and exempt under section 4(1)(h) of the Planning & Development Acts. The first Planner's Report acknowledges the subject structure itself is not a protected structure. However the second Report states that, as the works were not undertaken under a Section 57 declaration, retention is required. This is a change of position because the structure was now considered to be a protected structure as section 57 relates only to 'works affecting character of protected structures or proposed protected structures'. It is submitted the structure is not a protected structure and has no protected status. It is within the curtilage of a protected structure but was constructed after the protection was applied which was some time before 1999. Section 2 of the Planning & Development Act 2000 states a protected structure "means— (a) a structure, or (b) a specified part of a structure, which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition;" There is no reference in RPS No. 114 to any structure other than the 'Terraced six-bay single-storey thatched cottage (formerly two cottages), c.1840. set back from line of road in its own grounds with grass forecourt, and rendered boundary wall to perimeter of site'. As it is not a protected structure the owner was entitled to carry out these internal works.
- The second part of the reason for refusal relates to the proposed use of the structure. It is unclear whether this is a reference to the current use or a proposed use being a use not authorised by governing permissions. Household and garden furniture and items are stored in it including garden furniture brought outside in fine weather. It has recently been used for exercise. There is no unauthorised use, no warning letter etc. and it was not suggested in the third party observation. If the reference was in respect of the proposed use not complying with governing permissions, that is the purpose of the application and an inappropriate reason for refusal. The structure could have been put to any number of uses that are incidental to the enjoyment of the house such as

enjoying the views. The applicant and her husband are retired and have little use for office space. However, in the event of selling, the home office option would increase appeal. Had it been located within the house there is no question it would not have required planning permission and it is questionable whether the change of use actually requires permission. However, the precautionary approach was taken. The proposed use is a domestic type of use not involving a material change to the overall planning unit.

- The further information request suggested that proposed alterations should have due regard to existing heritage. No alterations are proposed. The request must have envisaged the possibility of windows or doors being inserted in the rear or side. The internal works carried out since the structure was permitted are never seen from the protected structures or in the context of the streetscape.
- A revised floor plan and elevation drawing is submitted illustrating the sliding doors and toilet.
- Notes prepared by the applicant which provided useful background to the applicant's agent when preparing the grounds of appeal are submitted as well as photographs of the structure mid-construction and the original smoke house.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 **Assessment**

The main issues are those raised in the grounds of appeal and the Planning Reports and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Previous Applications
- Protected Structure/Existing Glazing
- Proposed Use
- Appropriate Assessment

7.1. Previous Applications

- 7.1.1. There is a substantial planning history on site. Two applications, 03/116 / PL24.202993 and 07/1803, are specifically referenced in the planning authority's decision to refuse. The applications can be summarised as follows.

Planning Application 03/116 / PL 24.202993

- 7.1.2. Retention permission was sought to retain and complete a store in place of the demolished smoke house (to the rear of the house) as well as an oil tank and enclosure (to the front). The height of the store was reduced from a similar application refused permission under P.A. Reg. Ref. 02/203 / ABP Reg. Ref. PL 24.129948 because, having regard to the scale and height of the proposed structure to be retained and proximity to adjoining property, it would be visually obtrusive and would seriously injure the amenities of the area. Both the site layout plan and the floor plan and elevation drawing received under the current application are effectively identical to those submitted under 03/116. The smoke house had been demolished without the benefit of planning permission and the store was located close to the original site of the smoke house. Retention permission was granted by the planning authority.
- 7.1.3. The decision was subject of a third party appeal to the Board. The Board, noting the reduced height of the store from that previously refused, granted permission for retention and completion of the store, and retention for the oil tank and enclosure, subject to five conditions including that the store shall be ancillary to the use of the main house and not used for any commercial purpose, any proposal to install a toilet shall be subject of a separate application, and external finishes shall match the existing house. This is the structure in-situ on site.

Planning Application 07/1803

- 7.1.4. Permission was sought under 07/1803 to install a toilet within the garden store. Water and wastewater connections were to the public systems. Again, both the site layout

plan and floor plan and elevations drawings submitted were effectively identical to those submitted with the current application. Permission was granted subject to two conditions. The second condition stated the structure shall be used solely for purposes incidental to the enjoyment of the house and shall not be used for habitable purposes, housing of animals or commercial purposes.

7.2. Protected Structure/Existing Glazing

- 7.2.1. The reason for refusal states that the proposed development is facilitated by unauthorised works and the development would facilitate the consolidation of the unauthorised works and materially contravene the conditions of previous permissions. As alluded to in the grounds of appeal I consider that the overall reason for refusal is somewhat confusing in its wording. I note initially that impact on the protected structure is not cited in the reason for refusal.
- 7.2.2. RPS No. 114, 'Sunview (sic)/Crab Cottage' is identified as a 'Thatch house' in Appendix 13 (Record of Protected Structures) of the current County Development Plan. It is unclear where the more detailed description contained in the grounds of appeal is set out. The grounds of appeal is accompanied by Page 179 (Appendix 5: Listed Buildings) of the Waterford County Development Plan 1999 which refers to a row of thatched cottages. I note from 03/116 that RPS No. 114 had been designated as a protected structure before permission was granted under that application. Therefore, the subject structure is a relatively recent addition on site, permitted and constructed after the house was designated as a protected structure.
- 7.2.3. The applicant states that the existing sliding glazed windows/doors have been in situ since 2003. They are described as internal works to the structure and, as they are positioned behind sliding timber screen doors, I would not dispute that in this instance. The reason for refusal states that 'the installation of windows and doors in the structure' are unauthorised works. However, this assertion does not appear to be grounded in any official decision and the applicant claims the development is exempt under section 4(1)(h) of the Planning & Development Act, 2000 (as amended).
- 7.2.4. I consider that the glazed windows/doors, behind permitted solid timber doors and in situ for approximately 18 years, detached from the cottage and part of a structure constructed on foot of a permission granted after the designation of Seaview Cottage

as a protected structure, has no material impact on the setting or character of Seaview Cottage or Coole Cottage, which is closer to the structure than Seaview Cottage. The glazed areas cannot be seen from any part of either cottage. I consider that the glazed areas have no material impact on the setting of these protected structures.

- 7.2.5. Notwithstanding, the planning application is specifically for a change of use and the issue of the alleged unauthorised status of the glazed windows/doors is, effectively, not relevant to the actual permission being sought. The change of use does not depend on the glazed areas, though obviously they increase the usability and amenity.
- 7.2.6. Having regard to the foregoing, I consider the proposed development as applied for has no adverse impact on the protected structure(s).

7.3. Proposed Use

- 7.3.1. The existing use of the structure also appears to be included in the reason for refusal though again the wording of the reason is such that this is not clear.
- 7.3.2. On inspection of the building there was, among other items, sporting and exercise equipment, a couch, a toilet and a shower. The interior was well finished with a tiled floor and painted walls. There was no bed or kitchen or any other features that would facilitate human habitation and no evidence that it was ever used as such. Condition 3 (1) of PL 24.202993 (03/116) stated the use of the store shall be ancillary to the use of the main house and not used for any commercial purpose. Condition 2 of 07/1803 stated the store shall be used solely for purposes incidental to the enjoyment of the house and not for habitable purposes, animal housing or commercial purposes. The uses set out in the grounds of appeal and those noted on inspection are all, in my opinion, consistent with these governing conditions and could not be considered, as suggested in the wording of the reason for refusal, unauthorised under those permissions.
- 7.3.3. I consider the proposed uses, a home office/garden room, to be similarly consistent with the governing conditions. Home offices have recently become increasingly relevant, and the structure is already, effectively, a garden room. Subject to a standard condition in relation to use of the structure, I consider the proposed uses to be entirely consistent with, and ancillary to, the use of the main house.
- 7.3.4. I consider the proposed uses as a home office/garden room to be acceptable.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the development proposed i.e. a change of use, and to the nature of the receiving environment, namely an urban and fully serviced location remote from and with no reasonable hydrological or ecological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed 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. I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 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 15th day of January 2021 and by the further plans and particulars received by An Bord Pleanála on the 2nd day of March 2021, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The structure shall be used solely for purposes incidental to the enjoyment of the main house, which includes the uses sought in this application. The structure shall not be used for habitable purposes, housing of animals or commercial purposes.

Reason: In the interests of orderly development and the residential amenity of adjoining properties.

Anthony Kelly

Planning Inspector

01.07.2021