



An  
Bord  
Pleanála

## Inspector's Report ABP-311005-21

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<b>Development</b>	Permission for retention of modifications to existing garage/studio permitted under 16/754 and all associated site development works.
<b>Location</b>	Ballycummisk, Ballydehob, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	21/330
<b>Applicant(s)</b>	Paul & Breda Goss
<b>Type of Application</b>	Retention permission
<b>Planning Authority Decision</b>	Grant, subject to 4 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	Joseph O'Sullivan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	14 <sup>th</sup> October 2021
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located c. 3.2km to the south of Ballydehob and 0.4km to the north-east of the boat yard at Ballycummisk. This site has a southerly outlook over an inlet to Roaring Water Bay and Horse Island. It lies within undulating open countryside and it is accessed off the local road network to the south of the R592 between Ballydehob and Skull.
- 1.2. The site is of roughly regular shape and it extends over an area of 0.48 hectares. This site is enclosed by rising land around its northern boundary and north-eastern and north-western corners. Elsewhere, it is generally subject to gentle downward gradients in southerly directions with the exception being a mound in its south-eastern quadrant. The site accommodates a two-storey dwelling house (200 sqm), which is sited towards the centre of the northern portion of the site. This dwelling house is laid out in a “L” shape in plan-view and it has been extended by means of a single storey lean-to front porch/sun room. To the north-west of the dwelling house lies the building, which is the subject of the current application, and to the south-east lies a steel tech shed. Access to the site is available via a gated entrance off a lane from the adjacent local road. The site is bound by hedgerows.
- 1.3. To the north of the site lies the appellant’s property, which includes a cluster of buildings in the vicinity of the north-eastern corner of the site.

## 2.0 Proposed Development

- 2.1. Under the proposal, retention permission is sought for modifications to an existing garage/studio (173 sqm), which was permitted under 16/754, and all associated site development works. These modifications comprise the following elements:
  - (i) Flat roofed storeroom (34 sqm) around the perimeter of the existing garage/studio,
  - (ii) Alterations to the permitted elevations, and
  - (iii) Partial changes to the internal layout of the first-floor studio to 2 storage rooms and bathroom ancillary to the main dwelling (total floor area 30 sqm).
- 2.2. I would comment further on the first and second items, as follows:

- Item (i) laps around the sides and to the rear of the garage.
- Item (ii) encompasses alterations prompted by the larger footprint of the building, the internalisation of a staircase and the sub-division of the first floor. Consequently, the size of openings to the front elevation has been reapportioned and recessed pedestrian doors have been inserted at either end of this elevation, the roofline has been altered on the rear elevation, and first floor windows have been inserted in each of the vertical elevations to this floor. Furthermore, the cladding to these elevations has been respecified as sand/cement plaster rather than timber.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Retention permission granted, subject to 4 conditions, one of which reiterates the restrictions cited under the parent permission 16/754.

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

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

The case planner refers to the Board's previous decision (ABP-305413-19) to the effect that it was concerned with the residential use of the first-floor studio by an elderly parent.

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

- Cork County Council: Area Engineer: No objection, subject to conditions.

## **4.0 Planning History**

- 03/6264: Dwelling house: Permitted.
- 15/192: Retention of elevational alterations to dwelling house: Permitted.
- 16/754: Garage with first floor studio + conservatory extension: Permitted, subject to conditions, including one denoted as No. 3, which restricts the use

of the studio to that which is incidental to the enjoyment of the dwelling and which prohibits human habitation.

- SKB17/0027: Enforcement letter dated 11<sup>th</sup> January 2021 re. non-conforming use of the first-floor studio.
- 19/369: Retention of storeroom and alterations and fenestration changes to the garage/studio and retention of partial change of use of first floor studio for use as office and bedroom ancillary to the main dwelling: Refused at appeal ABP-305413-19, as the first-floor studio use was “a second, separate, independent residential unit on the site”.

## **5.0 Policy and Context**

### **5.1. Development Plan**

The operative statutory plans for the site are the Cork County Development Plan 2014 – 2020 (CDP) and the West Cork Municipal District Local Area Plan 2017 (LAP).

Under the CDP, the landscape character type of the site is Rugged Ridge Peninsulas, the value and sensitivity of which are deemed to be very high and the importance of which is deemed to be national.

### **5.2. Natural Heritage Designations**

Roaring Water Bay and Islands SAC (000101)

### **5.3. EIA Screening**

The proposal is for modifications to an existing garage/studio, which is used on an ancillary basis to the applicant’s dwelling house. As such, it does not come within the scope of any of the Classes of development that are potentially the subject of EIA.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Attention is drawn to the Board's decision on ABP-305413-19. Concern is expressed over the Planning Authority's allegedly slow recourse to enforcement and their track record on ensuring that conditions are complied with, e.g. with respect to the applicants' dwelling house. Concern is also expressed that nothing has changed physically since the Board's decision.

Attention is also drawn to the appellant's letter of objection to the Planning Authority, which is summarised as follows:

- The building permitted under 16/754 was never built, only that which was the subject of 19/369 and now the current application.
- The building which has been built contravenes Condition No. 14 attached to the permission granted to 03/6264, which requires that outbuildings be the subject of planning permission.
- The shed to the east of the dwelling is not exempted development. It was effectively refused, too, under ABP-305413-19.
- The refusal under ABP-305413-19 refers to the risk of adverse precedent.
- The completed application forms refer to a dwelling and the applicants' intention to sell it.
- The applicants need for the storage space in the first-floor studio is questioned.
- The size of the garage/studio is excessive for the provision of ancillary space to a dwelling.
- Concern is expressed over the incidence of new dwellings in the townland and to how buildings, large or small, are changing the character of this rural area.
- Strict criteria set out in Objective RCI 4-3 are applicable.

## 6.2. Applicant Response

The applicants begin by welcoming the Planning Authority's decision, which was based on a thorough assessment of the submitted application, which itself represents a comprehensive response to the issues raised in the enforcement letter. They express concern that the appellant is using the appeal process to raise the question of a shed to the east of their dwelling, which is not the subject of the current application. The Board is, therefore, requested to exercise its discretion and to dismiss this appeal under Section 138(1)(a)(ii) of the Planning and Development Act, 2000, as amended.

The applicants summarise the site, the proposal, and relevant planning history. With respect to the use of the first-floor studio, they state the following: It will be used to store equipment for their personal hobbies. They respond to the appellant's grounds of appeal as follows:

- The first floor will not be used to provide residential accommodation, e.g. no cooking facilities exist. In this respect, the applicants' elderly parents, who formerly resided with them, have passed away, and so the need for overflow accommodation for visitors now no longer arises.
- Under 16/754, the first floor was granted permission as an open plan studio. It has simply been sub-divided internally to provide storerooms, for bicycle and kayaks, and a bathroom. The ground floor storage space around the garage is used for storing firewood. Each of these storage spaces is used solely by the applicants, who reside in the adjacent dwelling.
- The appellant mis-construes Condition No. 2: It is attached to state precisely the parameters within which the garage/studio are to be used. As such, it accords with the advice on conditions set out in the Development Management Guidelines.
- Contrary to the appellant's assertion, the current application differs from its predecessor as the residential use of the first floor is no longer proposed.
- Contrary to the appellant's assertion, the current application seeks to regularise alterations that have arisen in the built garage/studio from that which was originally permitted. These alterations do not create unwelcome

landscape or visual impacts, as the Board's own inspector concluded in his assessment of ABP-305413-19.

- The garage/studio are not inordinate in size, as a comparison of it with similar facilities in the locality reveals.

The applicants also address the question of the shed to the east of their dwelling. They state the following:

- This shed is used for storage only.
- Whether or not it is authorised is not a question that is the subject of the current application.
- The Planning Authority's enforcement letter did not refer to this shed and so the current application in seeking to address the issues raised therein does not address it either.
- While the case planner acknowledged the shed in his report, he simply noted that it is small, may technically need planning permission, but would be *de minimis* for enforcement purposes.
- The appellant also refers to the dwelling permitted under 99/3302 for a site to the east of the applicants' site. His comments in this respect are not of relevance to the current application.

### **6.3. Planning Authority Response**

None

### **6.4. Observations**

None

### **6.5. Further Responses**

None



## 7.0 Assessment

7.1. I have reviewed the proposal in the light of the Cork County Development Plan 2014 – 2020 (CDP) and the West Cork Municipal District Local Area Plan 2017 (LAP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Procedural and legal matters,
- (ii) Usage,
- (iii) Amenity, and
- (iii) Appropriate Assessment.

### **(i) Procedural and legal matters**

7.2. The appellant expresses dissatisfaction over the Planning Authority's handling of the enforcement enquiry against the subject building and the enforcement of conditions pertaining to developments on the site.

7.3. The above matters raised by the appellant relate to the administrative functions of the Planning Authority and, as such, they do not lie within the Board's remit to review.

7.4. The appellant also expresses dissatisfaction over the steel tech shed, which is not exempted development, and which was effectively refused under ABP-305413-19.

7.5. The applicants have responded by stating that the steel tech shed is not the subject of their current application, which seeks to address the matters raised in the Planning Authority's enforcement letter and the subsequent decision of the Board (ABP-305413-19) on their application 19/369. They state that the appellant is using the appeal process as a means of raising the steel tech shed and so they request that the Board exercise its discretion under Section 138(1)(a)(ii) of the Planning and Development Act, 2000 – 2021, to dismiss his appeal.

7.6. I acknowledge what the applicants are saying about the steel tech shed: It is not the subject of the current application for retention and so it is not before the Board for assessment. However, the appellant does raise other matters, too, which pertain to

the subject building and so I do not consider that the Board should accede to the above cited request of the applicants to dismiss his appeal.

7.7. I conclude that there is no procedural impediment to the Board proceeding to assess and determine the current application/appeal in the normal manner.

**(ii) Usage**

7.8. Under application 19/369, the retention of a partial change of use of the first floor of the subject building from studio to office and bedroom ancillary to the main dwelling house was refused at appeal ABP-305413-19, on the grounds that the first-floor use was “a second, separate, independent residential unit on the site”.

7.9. Under the current application, the retention of a partial change of use of the first floor of the subject building from studio to 2 storage rooms and a bathroom ancillary to the main dwelling house is proposed. By way of explanation, the applicants report that, since their previous application, their parents who resided with them have passed away, and so the need for overflow accommodation for visitors now no longer arises. They also draw attention to the absence of cooking facilities from the first floor, which obviates its possible use as a self-contained residential unit, and its use for solely for their own domestic storage. Likewise, the ground floor storage area that laps around the garage is used to store firewood for their own use.

7.10. The appellant questions whether the storage areas thus identified by the applicants are really needed. He considers that these areas are excessive.

7.11. During my site visit, I inspected the subject building. I observed the wood that is being stored on the ground floor and the domestic storage that occurs on the first floor. I satisfied myself thereby that the applicants’ description of the use of the subject building is accurate. Whether the extent of such storage space is “excessive” is an open question, as, to my knowledge, there are no agreed parameters to judge what might be considered to be excessive. From my experience of visiting rural residential properties, it is not unusual for households to have spacious storage facilities, certainly by comparison with typical urban residential properties, such as the applicants’.

7.12. The appellant cites Objective RCI 4-3 of the CDP which relates to the rural housing need criteria, which are operative on the site, which lies within a Tourism and Rural Diversification Area. This Objective would be relevant if the first floor was being used

as a self-contained dwelling unit. However, as this floor is being used for domestic storage on an ancillary basis to the adjacent dwelling house on the site, it is not applicable.

7.13. The appellant cites section 4.1 of the completed application forms, which indicate that, if permission is granted, the applicants intend to sell the house/site. The applicants have not responded to this citation. Any changes in the future ownership of the site would not be relevant insofar as any retention permission granted would “run with the land” rather than being personal to the applicants.

7.14. I conclude that the retention of the subject building on the basis of the uses described in the proposal would be appropriate, provided they continue to be undertaken on an ancillary basis to the dwelling house on the site.

### **(iii) Amenity**

7.15. Under the CDP, the landscape character type of the site is Rugged Ridge Peninsulas, the value and sensitivity of which are deemed to be very high and the importance of which is deemed to be national.

7.16. The appellant expresses concern over the incidence of new dwellings in the townland and to how buildings, large or small, are changing the character of this rural area. In this respect, he draws attention to the absence of permission for the subject building, which differs from that which was granted under 16/754 and which is in breach of Condition No. 14 attached to the permission granted to 03/6264.

7.17. The applicants have responded by drawing attention to the report of the Board’s inspector on ABP-305213-19, which did not raise any landscape or visual concerns over the proposed retention of the subject building. They also draw attention to the current application’s quest to regularise the planning situation pertaining to this building.

7.18. I recognise that a garage/studio was permitted for the site under 16/754 and that the building which was subsequently built differs from that which was permitted in several respects. Thus, while the siting is similar, the overall size is greater, and the design incorporates a number of changes that effect the shape, roofline, and fenestration of the resulting building.

7.19. I consider that the principle of the garage/studio was established by the permission granted to 16/754. During my site visit, I observed that the building which has been built is sited in a position whereby the lower reaches of its western and northern and part of its eastern elevations abut the surrounding rising land, which frames the northern boundary of the site and its north-western corner. Consequently, only the upper reaches of these elevations are visible. The land form of the site and accompanying trees and vegetation ensure that the profile of these elevations from vantage points external to the site is effectively screened. The adjacent dwelling house means that the visibility of the eastern elevation is effectively restricted to the portion of the site to the rear of this dwelling house. The remaining southern elevation is visible from within the site and from vantage points to its south. It is predominantly finished in stonework and the roof is clad in slate, both of which match that on the adjacent dwelling house. Changes in the building from that which was permitted under 16/754 are least evident in this elevation. Thus, this building maintains a discrete presence within the landscape and, where it is more visible, it complements the adjacent dwelling house.

7.20. I conclude that the landscape and visual impacts of the proposal are either negligible or, where they are more significant, they are compatible with the landscape and its visual amenities.

### **(iii) Appropriate Assessment**

7.21. The site is not in a European site. The nearest such site, Roaring Water Bay and Islands SAC, lies c. 310m to the south. The project is to retain the as built garage/studio, including a partial change in the use of the first floor studio to 2 storage rooms and a bathroom. Surface water from the garage/studio discharges to an existing soakaway and the bathroom is served by an existing on-site well and an existing on-site septic tank and percolation area. As this bathroom would be used on an ancillary basis to that of the adjacent dwelling house, which is also served by these facilities, no increase in their usage would result. No Appropriate Assessment issues would arise from this project.

7.22. Having regard to the nature, scale, and location of the proposal, the nature of the receiving environment, and the proximity of the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal would not

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. That retention permission be granted.

## 9.0 Reasons and Considerations

Having regard to the Cork County Development Plan 2014 – 2020, the West Cork Municipal District Local Area Plan 2017, and the planning history of the site, it is considered that the proposed retention of the garage/studio as built, including the partial sub-division of the first floor into two storage rooms and a bathroom, would be appropriate, provided it is used on an ancillary basis to the adjacent dwelling house on the site. This garage/studio maintains a largely discrete presence within the landscape, and it is compatible with the visual amenities of the area. No water or Appropriate Assessment issues arise. The proposed retention would, thus, accord with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be retained in accordance with the plans and particulars lodged with the application.  <b>Reason:</b> In the interest of clarity.
2.	The garage/studio shall be used solely on an ancillary basis to the adjacent dwelling house on the site and it shall not be used for the carrying out of any trade or business or for human habitation.  <b>Reason:</b> In the interest of clarity and in order to afford the Planning Authority the opportunity to control usage in the interest of amenity.

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Hugh D. Morrison  
Planning Inspector

8<sup>th</sup> November 2021