



An  
Bord  
Pleanála

## Inspector's Report ABP-313983-22

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<b>Development</b>	Retention of garage
<b>Location</b>	Ballybeg, Ennis, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	211262
<b>Applicant(s)</b>	Colm Fitzgerald
<b>Type of Application</b>	Permission to retain
<b>Planning Authority Decision</b>	Refusal of retention
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Veronica and Mike McInerney
<b>Observers</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> December, 2022
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. The site is that of a large, detached house which is part of continuous ribbon development on a tertiary cul-de-sac road in the southern outskirts of Ennis town. The road is semi-rural in character – with no footpath and overlooking undeveloped lands to the southeast. The house is on the western side of the road and has frontage of 38m. The house is 10.065m wide and roughly centred with a set back at just over 10m from each of the side boundaries to the north and south. The site is moderately elevated above the site to the north. There is slight sloping downwards of the tarmac drive as it extends alongside the garage under the car port in a north west direction.
- 1.2. There is a detached garage to the north side of the house to the rear of the house building line and is visible from the road. The garage has a gable fronted pitched roof and the gable features a porthole window over the metal garage door entrance. There is a flat roofed car port to the side of the garage which is supported on poles alongside the boundary wall. The finishes are principally rendered walls with slate roof. The boundary comprises a fairly solid raw timber rail and post fence extending over a concrete block wall. There is a timber shed to the rear of the car port alongside the boundary.
- 1.3. There is a similar dwelling to the north in an adjacent site. (Appellant) This dwelling has a detached garage along its southern boundary at a similar set back from the road frontage as the subject garage. The boundary between the dwellings to the front of the respective garages features a well-established leylandii hedge.
- 1.4. My photographs of the site are appended. Also, photographs of the site and specifically the location of the garage and boundary before construction are appended to planning history file (PA ref 18-91). There are also photographs of the site as viewed from the neighbouring dwelling submitted with the appeal in addition to photographs of building stages submitted as further information by the application to the planning authority and as part of the planning authority assessment.

## **2.0 Proposed Development**

- 2.1. Permission is sought to retain a 33.75 sq.m. garage as varied from that permitted under PA register reference 19/455. The garage features:
- 8m x 5m footprint with slate roof to match dwelling and 3 velux rooflights. Ridge height 5.67m. It is hipped to the rear and a door and window are in the southern elevation (facing the applicant's garden.)
  - 3 x 8m canopy alongside the garage with a timber frame and of polycarbonate roof.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Following a response to a request for further information on 27<sup>th</sup> January 2022, the planning authority decided to grant permission to retain the development by order dated 9<sup>th</sup> June 2022 subject to 3 conditions relating to standard compliance with drawings and particulars submitted, surface water management and use of garage.

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

- 3.2.1. The initial assessment flagged the variations in height and location of the garage to be retained as compared to that permitted and notably flagged a possible 1m change in ground levels due to infill. As infill is not included in the description of development this matter is raised as needing clarification by way of further information. This also raises issues of accuracy of description and issues in relation boundary treatment. Additionally the height of the roof is queried by reference to the neighbouring garage. FI was sought by order on 27<sup>th</sup> January 2022.
- 3.2.2. Final Planning Report: The report notes the detailed submission by the applicant explaining the nature of changes to the ground level and accepts the statements. No AA or EIA issues arise.

### **3.3. Technical Reports**

None.

### 3.4. **Prescribed Bodies**

IW: No objections subject to conditions.

### 3.5. **Third Party Observations**

- 3.5.1. One submission was made to the planning authority by the appellant party who lives in the adjacent dwelling to the north. In this, objections are raised concerning the infill of the site and impact on boundary in relation to visual amenities, boundary stability and moisture in ground. This was accompanied by photographs.

## 4.0 **Planning History**

- 4.1. The relevant case is Planning Authority reference **P19-455** which refers to permission for a single storey house extension to the side (constructed) and a detached single storey garage to the side to the rear of the house. (Constructed as varied.) The garage in the permitted drawings is described as including a timber framed lean-to as a car port to the northern side of the garage. The report and the manager's order are in the pouch at the back of the file. The file details include a site layout only.
- 4.2. The permission for the garage in this case was subject to not encroaching on the boundary and managing drainage. In this case the southern wall of the garage lined up with the porch screen of the house and was 10.37m from the northern side boundary. The car port was at a distance of 700mm at its closest to the boundary and there was a verge between the drive and boundary.

## 5.0 **Policy Context**

### 5.1. **Clare County Development Plan 2023-2029 (effective 20<sup>th</sup> April 2023)**

The site is zoned – Existing Residential in Volume 2 Ennis Map and it is an objective (Vol.1) in such areas to conserve and enhance the quality and character of the area.

### 5.2. **EIA Screening**

- 5.2.1. Having regard to the limited nature and scale of the proposed development in serviced lands and the absence of any connectivity to any sensitive location, there is

no likelihood of any 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.

## 6.0 The Appeal

6.1.1. The applicant has appealed the decision to grant permission to retain on the following grounds:

- The garage is **visually obtrusive and overbearing**.
- Ground levels: The garage has been constructed on **raised ground**.
- Construction: The **stability** of the boundary wall is questioned having regard to significant ground difference on of the raised ground levels and impact of water
- The wall is experiencing **seepage of water** - more moisture than prior to infill etc.

## 6.2. Response

6.2.1. The applicant makes the following points in response:

- The design and layout have been respectful of the neighbouring amenities as evident in the siting alongside the neighbours' garage and the window and door openings are oriented into the applicants' garden.
- Section drawings illustrate the original and revised ground levels.
- There was levelling off of the ground so as to avoid rolling machinery/vehicles, but it is normal construction.

## 6.3. Planning Authority Response

6.3.1. No further comment .

## 7.0 Assessment

### 7.1. Appeal Issues

7.1.1. The issue in this case centres on visual amenity. There are also issues in relation to boundary treatment and drainage.

- 7.1.2. As viewed from the road, the garage structure and canopy to the side are visually unobtrusive in so far as they are of a visually high standard and harmonise with the existing dwelling in materials and finishes, are well set back off the road and are in keeping with the residential character and orderly development the area.
- 7.1.3. The issue however is the impact as viewed from the neighbouring dwelling to the north. The main difference is that the garage has been constructed within 3m of the boundary as compared to approximately 6m (as scaled from the history file site layout plan forwarded by the Planning Authority). In the intervening space a car port structure has been constructed up to the boundary instead of being stepped back with a buffering grass verge. The site appears to have been levelled off where it previously sloped to the boundary as is apparent in the section drawings submitted in the applicant's response. The result is a considerably higher and visually prominent structure along the boundary with no means of providing screen planting.
- 7.1.4. While I accept that the applicant has sited the garage alongside the neighbouring garage and oriented openings away from the neighbour, I do not consider this alone sufficiently mitigates the visual and overbearing impact. Its prominence from the neighbouring garden is evident and further compounded by the additional timber shed also alongside the boundary. The lack of soil and absence of screen planting in this area also significantly limits possibilities of assimilating the structures and the timber fence - a temporary type structure that will, over time, wear and rot. Notwithstanding the orderly aspect from the street view, I consider the juxtaposition of the ancillary structures along the boundary unduly detracts from the visual amenities of the adjacent dwelling by reason of the dominant and overbearing aspect as viewed from its curtilage.
- 7.1.5. I consider the overall impact on the neighbouring dwelling is unwarranted in this generously proportioned site in a semi-rural setting. Accordingly I do not consider permission should be granted for the structure in its current format.
- 7.1.6. If the Board is of a mind to grant permission for the garage, I consider this is best assimilated by removing the car port canopy so as to provide at least 1m -2m of a permeable verge that could provide for planting. This could be augmented by shifting the timber shed to the south and extending a landscaped boundary so as to obscure

the views of the elevated garage that is in closer proximity than previously permitted. Details of this could be agreed.

- 7.1.7. With respect to the ground level there is concern that the ground has been raised. The planning authority sought clarification and generally accepts the applicant's submission that no infilling occurred although the details submitted state that part of the sloping ground adjacent to the boundary was levelled in line with what is expected of normal construction work in such a sloping site. I consider this comment indicates that some infilling has been done as is also apparent in the section drawings (as contained in applicant's response).
- 7.1.8. It is difficult to verify the exact degree of levelling works . It is evident from the 'before' photographs that the site slopes in a north westerly direction and a degree of sloping has been maintained. I note from my photographs that the eaves of the neighbouring garage is just below the top of the fence and there would appear to be some moderate raising/levelling such that the car port is likely to be higher relative to the boundary as was initially permitted. Although the lack of detailed comparative permitted and as constructed drawings and levels makes this difficult to verify . Either way the finished level whether it was original or raised is too high relative to the neighbouring property by reason of scale, height and extent along the boundary and proximity to same.
- 7.1.9. The other issue arising from the works relates to drainage. The appellant refers to water ingress from the subject site into his property as a consequence of the new boundary arrangements. The issue of encroachment and physical damage of private property is strictly a civil matter between the properties and planning permission specifically does not override rights in this regard. Clearly there has been a degree of co-operation between the neighbours in removing the leylandii and fencing and constructing a wall. In the event of the removal of the canopy and reinstatement of soil / planting this would likely provide an opportunity to address the issue of containing run-off within the site. It is possible that the removal of the leylandii trees has contributed to an increase in wetter soil although their removal allows more sunlight into the garden. New landscaping would however have to be of a nature that does not put pressure on the wall. This could be subject of a condition requiring agreed plans.

- 7.1.10. In respect of run-off, the applicant states that a drainage system has been put in place but no further details are provided. I note a drain traversing the drive but the extent and gradient of hardstanding up to the boundary suggests a run-off towards the wall – it is also unclear where the drain water ends up. This could be addressed by condition.
- 7.1.11. Ultimately, I consider the alterations from that permitted to result in development that is quite prominent and overbearing and the retention of such in its entirety would seriously injure the residential amenities of the neighbouring dwelling to north. However in view of the materials and finishes in the structure, I consider that subject to removing the canopy and maintaining the existing standard of elevational finishes while making good and providing appropriate landscaping, the garage could be partially screened and would be acceptable. Accordingly I consider the decision of the planning authority should be upheld subject to amended conditions.

## **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature, scale, and location of the proposed development, no Appropriate Assessment issues arise as the development 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. I recommend that permission for retention is granted based on the following reasons and considerations and subject to the following conditions.

## **9.0 Reasons and Considerations**

Having regard to the residential land use zoning of the area, the design, nature and scale of the development to be retained and the existing pattern of development in the area it is considered that subject to compliance with the conditions set out below the retention of the development would not seriously injure residential amenities of the area and would 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, 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. The development shall be altered as follows:
  - (a) The flat-roofed timber framed structure /car port attached to the garage shall be removed within eight months of the date of this Order and the garage elevations shall be made good.
  - (b) The hard surfaced ground along the northern boundary shall be replaced with soil and the boundary shall be landscaped in accordance with a comprehensive scheme of landscaping so as to obscure views of the garage from the garden to the north.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. Within three months of the date of this Order, the developer shall submit for the written agreement of the planning authority full details, including appropriately scaled drawings of drainage arrangements for the disposal of surface water generated by the development.

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

4. The garage structure shall be used from domestic purposes only incidental to the enjoyment of the dwelling house and under no circumstances shall the structures be used as habitable accommodation or commercial use.

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

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Suzanne Kehely  
Senior Planning Inspector

3<sup>rd</sup> May 2023