



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314376-22

---

<b>Development</b>	Dwelling house as constructed, domestic garage as constructed from those previously permitted under planning application reference 18/1008. Retention is also sought for an additional domestic garage constructed on site
<b>Location</b>	Ballycullane Lower, Glin, Co. Limerick.
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	211129
<b>Applicant(s)</b>	John & Suzanne Horan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	First Party v. Conditions
<b>Appellant(s)</b>	John & Suzanne Horan
<b>Date of Site Inspection</b>	13 <sup>th</sup> April 2023
<b>Inspector</b>	Liam Bowe

## 1.0 Site Location and Description

- 1.1. The site is located in a rural area of west County Limerick, approximately 2.6km to the east of Tarbert, County Kerry and 3.6km to the west of Glin village in County Limerick. The site is accessed from the L-1233 local road, approximately 260m to the south of its junction with the N69 national road that connects Limerick City and Tralee via Listowel. There are houses immediately to the east and south of the appeal site.
- 1.2. The site itself has a stated area of 0.48 hectares and is of regular shape. This site is relatively flat from the eastern / roadside boundary to where the house and associated domestic garages are located and then falls away to the west and northwest i.e., from 39m OD in the middle of the site to 36m OD at the north-western corner. The site boundaries are open on the northern and western sides; a hedgerow runs along the length of the southern boundary; and a low hedgerow runs along the roadside boundary. There is a 1 ½ storey house on the site with a single storey annex to the rear and two associated domestic garages, one sited to the side and one to the rear of the house.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise the retention of a house and domestic garage as constructed on the site and the retention of an additional domestic garage on the site at Ballycullane Lower, Glin, Co. Limerick.
- 2.2. The house is primarily 1 ½ storey in design with a single storey part to the rear at ground floor level. The house has a floor area of 340m<sup>2</sup> and a ridge height of 6.925m, with render finish, some stone cladding and black slates. The two domestic garages have floor areas of 31.4m<sup>2</sup> each and a height of 4.5m. A landscaping plan was proposed and part of this involved the reinstatement of part of the roadside boundary.

## 3.0 Planning Authority Decision

### 3.1. Request for Further Information

Prior to notification of decision, the Planning Authority issued a further information request on 29<sup>th</sup> September 2021 requiring a design statement justifying the proposed design and departure from the original layout and design, revisions to the design and layout, and demonstration of compliance with condition no.'s 4, 5, 10 and 16 of the original permission issued under P.A. Ref. No. 18/1008. The first party contended that a design statement was not necessary as the house on-site was substantially in accordance with the house permitted under P.A. Ref. No. 18/1008, that the additional garage is screened from public views, that the first floor door is required for maintenance purposes, and that first floor windows formed part of the original permission and are located c.85m from the nearest property. The first party also submitted compliance details for the conditions listed in the RFI.

### 3.2. Decision

- 3.2.1. By order dated 20<sup>th</sup> July 2022 Limerick City & County Council issued a notification of decision to Grant Permission for the proposed development subject to 5 no. conditions. Of note are the following conditions:

**Condition No.4:** Within three months of grant of this retention permission, the unauthorised garage structure on site shall be removed in full. Full photographic detail of finished works in this regard shall be submitted for the written agreement of the planning authority.

Reason: In the interests of orderly and sustainable development.

**Condition No.5:** Within six months of grant of this retention permission, the existing door onto the flat roof shall be replaced with a window into existing ope. Full photographic detail of finished works in this regard shall be submitted for the written agreement of the planning authority.

Reason: In the interests of orderly and sustainable development.

### 3.3. **Planning Authority Reports**

#### 3.3.1. **Planning Reports**

There are two Planning Reports on file dated 28<sup>th</sup> September 2021 and 14<sup>th</sup> July 2022, respectively. The Planning Officer in the initial report expresses concerns in relation to the changes to the design of the house and the additional domestic garage. The report recommended further information be requested regarding a design statement justifying the proposed design and departure from the original layout and design, revisions to the design and layout, and demonstration with compliance with condition no.'s 4, 5, 10 and 16 of the original permission issued under P.A. Ref. No. 18/1008.

Appropriate Assessment Screening was carried out and concluded that there is no likely potential for significant effects to any Natura 2000 site.

A second Planner's Report (dated 14<sup>th</sup> July 2022) refers to the further information submitted and considered that, having regard to the additional information, permission should be granted subject to 5 no. conditions.

#### 3.3.2. **Other Technical Reports**

**Environmental Services** – The Executive Engineer in his report dated 10<sup>th</sup> September 2021 sought further information in relation to the installation of the wastewater treatment system.

### 3.4. **Prescribed Bodies**

None.

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

A submission was received from Francis Foley, Ralaphane, North, Tarbert, Co. Kerry. The issues raised included concerns about the visual impact, character of the house, overlooking to neighbouring houses and enforcement issues.

## 4.0 Planning History

### 4.1. Appeal site:

**P.A. Ref. No. 18/1008:** Permission granted for a 1 ½ storey house.

### 4.2. Adjacent sites:

**P.A. Ref. No. 17/824:** Permission granted for a 1 ½ storey house on the site to the south.

## 5.0 Policy Context

### 5.1. Limerick Development Plan 2022-2028

The Board should note that the Limerick Development Plan 2022-2028 came into effect on 29<sup>th</sup> July 2022.

#### 5.1.1. Objective HO O21: Rural Areas Elsewhere

It is an objective of the Council that to help stem the decline and strengthen Rural Areas Elsewhere, in general demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria.

#### 5.1.2. Design Guidelines for Rural Houses

“Simple design and materials reflecting the traditional vernacular of Limerick’s rural architecture should be used. Applicants are required to refer to Limerick’s Rural Design Advice for Individual Houses in the Countryside updated in 2012 and any subsequent documents prepared by the Council.”

#### 5.1.3. Conservatories, Garages and Other Extensions

“The key objective is ensuring that the main house is clearly seen as the dominant element. The scale and detail of additions, garages in particular, should match the balance of the house and be subservient to it.”<sup>1</sup>

---

<sup>1</sup> P.56, 5. Designing the House, Rural Design Advice for Individual Houses in the Countryside (Limerick County Council 2012)

## 5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 sites are River Shannon and River Fergus Estuaries SPA (Site Code: 004077) and Lower River Shannon SAC (Site Code: 002165) which are both located approximately 900m to the north of the appeal site.

## 5.3. EIA Screening

Alterations to a house and a domestic garage to the rear of an existing house are not classes of development for which EIA is required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of appeal are submitted by the First Party: John & Suzanne Horan, Ballycullane Lower, Glin, Co. Limerick. The main points made can be summarised as follows:

- Contend that the house as now existing on the site is in accordance with the revised plans submitted and granted, with some minor alterations, under P.A. Ref. No. 18/1008.
- Contend that these minor alterations are not material changes to the permission issued.
- Contend that the additional garage does not constitute over-development of the site and request that condition no.4 be omitted.
- Believe, as the exempted development for a garage is 25m<sup>2</sup>, that the condition imposed by the Council for the removal of the 31m<sup>2</sup> garage is unjust.
- State that the door at first floor level has a practical use for providing access to a flat roof to facilitate maintenance. States that the first parties have no intention to use the roof as a balcony and request that condition no.5 be omitted.

## 6.2. Planning Authority Response

The Planning Authority have not responded to the grounds of the appeal.

## 7.0 Assessment

This is a first party appeal only against Condition No.'s 4 and 5 attached to the planning authority's decision to grant permission. These conditions relate to the removal of a domestic garage from the rear their house and the removal of a first floor door from the rear elevation of their house.

Having regard to the nature and scale of the proposed development and the nature of Condition No.'s 4 and 5 it is considered that the determination by the Board of the application, as if it had been made to it in the first instance is not needed, and that a de novo assessment would not be warranted. Therefore, the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.

### 7.1. Condition No.4

7.1.1. As stated earlier in this report, development on the appeal site comprises a 1 ½ storey house with a single storey part to the rear, and two domestic garages to the side and rear of the house. The house has a floor area of 340m<sup>2</sup> and a ridge height of 6.925m, with render finish, some stone cladding and black slates. The two domestic garages have floor areas of 31.4m<sup>2</sup> each and a height of 4.5m. Condition No.4 requires the removal of the garage that is sited to the rear of the house.

7.1.2. The Planning Authority's reason for attaching condition No.4 to their notification of a decision to grant permission is stated as 'in the interests of orderly and sustainable development'. Within the Planning Officer's report dated 14<sup>th</sup> July 2022, it is stated that:

"The site is located within Scenic View and Prospect as set out in the County Development Plan and Interim Development Plan, the provision of extra garage on site represents over development and should be removed from the site."

- 7.1.3. The first parties contend that the additional garage does not constitute over-development and quote a precedent for this under P.A. Ref. No. 01/2757<sup>2</sup> where Limerick City & County Council granted permission for retention for an additional 64m<sup>2</sup> to a domestic garage as the house remained the dominant structure on the site.
- 7.1.4. The appeal site is located on a designated scenic route that generally runs along the N69 coastal road but also turns south at Glin village and loops back to the N69 along the L-1233 local road past the appeal site (Map 6.2 Views and Prospects within the Limerick Development Plan 2022-2028 refers). Following my site inspection, I can confirm that the house is clearly visible from the scenic route immediately to the east of the appeal site. However, I can also confirm that the domestic garage that is the subject of Condition No.4 is not visible from the scenic route due to its siting entirely to the rear of the permitted house. Therefore, I am satisfied that the retention of the garage would have no significant adverse impact on this scenic route or the visual amenities of the area.
- 7.1.5. In relation to the matter of over-development, the Rural Design Advice for Individual Houses in the Countryside (Limerick County Council 2012) gives guidance for the design and siting of domestic garages and states:
- “The key objective is ensuring that the main house is clearly seen as the dominant element. The scale and detail of additions, garages in particular, should match the balance of the house and be subservient to it.”
- 7.1.6. The garage for retention is one of two garages both 31.4m<sup>2</sup> i.e., 62.8m<sup>2</sup> total area. The permitted garage is sited to the side and rear of the house and is visible from the scenic route whilst the garage for retention is sited entirely to the rear of the house and as stated above, is not visible from the scenic route. I consider that a single domestic garage of 62.8m<sup>2</sup>, if sited appropriately, would generally be acceptable if associated with and subservient to a house in a rural area.
- 7.1.7. In this regard, I consider the design, siting and layout of two smaller structures on the appeal site to be a more traditional approach to the provision of storage areas and

---

<sup>2</sup> I was unable to verify this reference number quoted by the first party as it does not match the development description or application details for the reference number quoted on Limerick City & County Council's planning search website.



the housing of services, particularly in a coastal area where shelter is a consideration. I am satisfied that the garage for retention matches the house and, whether considered alone or in-combination with the permitted garage, is subservient to the house and does not represent over-development of this 0.48 hectares site.

- 7.1.8. I consider that in view of the positioning of the additional garage for retention, entirely to the rear of the house on the site, it would be acceptable, does not represent over-development of the site and would not detract from the scenic route at this location. On the above basis, I consider that the domestic garage would not have any significant impact on the visual amenities of the area and I, therefore, recommend to the Board that Condition No.4 be omitted.

## 7.2. **Condition No.5**

- 7.2.1. Condition No.5 requires the removal of a door at first floor level from the rear elevation of the house and its replacement with a window. This door presently provides access to a flat roof area and the first parties state that the door has a practical use for providing access to facilitate maintenance of the flat roof area. The first parties confirm that they have no intention to use the roof as a balcony.
- 7.2.2. The Planning Authority's reason for attaching condition No.5 to their notification of a decision to grant permission is stated as 'in the interests of orderly and sustainable development'. Within the Planning Officer's report dated 14<sup>th</sup> July 2022, it is stated that:
- "First floor door to flat roof should be removed from the development".
- No further comment on the matter is provided in the Planning Officer's report as to the reasoning for requiring the removal of the door and its replacement with a window other than that provided on Condition No.5.
- 7.2.3. I do note, and draw the Board's attention to, that when assessing the items for retention under this application, the Planning Officer may have reviewed the original drawings and layout submitted with the planning application made under P.A. Ref. No. 18/1008 rather than the revised, and subsequently permitted, drawings and layout submitted to the planning authority on 11<sup>th</sup> April 2019 in response to the RFI.

For clarity, the first parties submitted a copy of these drawings to the planning authority in response to the RFI on this current application on 24<sup>th</sup> June 2022.

- 7.2.4. As there is a considerable difference in the proposed design and layout from that first submitted under P.A. Ref. No. 18/1008 to the revised / permitted design and layout as submitted in response to the RFI, I can understand the concerns expressed by the Planning Officer in his report and RFI under this current application. However, I agree with the first party that that the house as now existing on the site is substantially in accordance with the revised plans submitted and granted, with some minor alterations, under P.A. Ref. No. 18/1008.
- 7.2.5. Following my inspection of the site, I can confirm that flat roofed area is entirely to the rear of the house and the door that is the subject of this condition faces due west. The flat roof is above the ground floor utility room and dining room. I can also confirm that the lands to the west and north of the house are in agricultural use.
- 7.2.6. The planning authority's main concern with the door for retention may be in relation to the possible use of the flat roof area as a balcony and the associated impacts that this may have on the residential amenities of the area. The closest house to the appeal site is approximately 80m to the south. I consider that any such impact on the residential amenities of this house would not be significant given the distance between the houses and the obscured nature of the view from the flat roof area (if used as a balcony) on the western elevation of this house to the house to the south of the appeal site.
- 7.2.7. However, the development proposal for consideration herein is for the retention of the door only. I acknowledge that the first parties have stated that the door providing access to the flat roof area is to facilitate the ease of maintenance of this area only. I am satisfied that this is the case, and this precludes the possibility of overlooking of the house to the south of the appeal site.
- 7.2.8. On the above basis, I consider that the door would not have any significant impact on either the visual or residential amenities of the area or property in the vicinity. I therefore recommend to the Board that Condition No.5 also be omitted.

### 7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the development for retention and to the nature of the receiving environment, remote from any European site and the absence of any direct or indirect pathway between the appeal site and 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**

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to:

**REMOVE** condition numbers 4 and 5.

## 9.0 **Reasons and Considerations**

Having regard to the nature, scale, design and layout of the development for retention, as well as the development's overall adherence to the design guidance outlined in the Rural Design Advice for Individual Houses in the Countryside (Limerick County Council 2012) referenced in the Limerick County Development Plan 2022-2028, it is considered that the development to be retained would not have a significant negative impact on residential or visual amenities of the area and that the planning authority's Conditions No.'s 4 and 5 requiring the removal of the domestic garage and first floor door on the rear elevation of the house are not, therefore, warranted.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Liam Bowe  
Senior Planning Inspector

4<sup>th</sup> May 2023