



An
Bord
Pleanála

Inspector's Report ABP314649-22

Development	Retention of a mural on gable wall of a dwellinghouse.
Location	3 The Lane, Nicker, Old Pallas, County Limerick.
Planning Authority	Limerick County Council.
Planning Authority Reg. Ref.	22784.
Applicants	Aoife Kiely and Darlene O'Carroll.
Type of Application	Retention application.
Planning Authority Decision	Refusal of retention.
Type of Appeal	First Party
Appellants	Aoife Kiely and Darlene O'Carroll.
Observer(s)	Elaine Holmes. Mary Holmes and Donal Foley
Date of Site Inspection	15 th June 2023.
Inspector	Derek Daly.

1.0 Site Location and Description

1.1. The proposed site is located in Nicker Village approximately 3kilometes north west of Old Pallas in County Limerick. On the site is a detached single storey cottage which fronts onto western side of the main street running through the village. The front elevation has a stone façade and the southern gable a plater finish. The adjoining site to the south is a vacant area and to the south of this area is a Church. To the north is a row of detached dwellings.

2.0 Proposed Development

2.1. The application as submitted is for the retention of a mural on gable wall of a single storey dwellinghouse. The mural which occupies the central area of the gable is 1800 mm in height and 1850mm in width and the lowest section of the mural is approximately 950mm above ground level. The mural depicts a man from the waist up with a dog with an inscription ar gcara maith below the portrait with a Celtic motif. The overall height of the gable wall to ridge roof is 5150mm.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to refuse retention of planning permission. One reason was stated which refers to the siting of the mural on a prominent elevation of a vernacular dwelling along the main road in the village in close proximity to a protected structure would introduce a feature which detracts from the character of the dwelling, the adjacent protected structure and the streetscape and injure the visual amenity of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 1st September 2022 refers to provisions of the current 2022 County Development Plan with specific reference to Objectives SCS1 031, 032 and 034, objectives in relation to protection of protected structures, Objective CRG

which refers to positive contribution of the streetscape and submissions received. Refusal was recommended for reasons stated in the refusal.

3.2.2. Other Technical Reports

Conservation Officer report requested further information considering the documentation submitted is insufficient for a development involving the setting and amenities of a protected structure and recommends further information be submitted.

4.0 **Planning History**

No relevant history.

5.0 **Policy and Context**

5.1. **Development Plan**

The current statutory development plan is the Limerick County Development Plan 2022-2028. There are a number of general objectives in relation to public art SCSi 031, and SCSi 032 but there is no specific provisions in relation to wall murals.

The Roman Catholic Church on the adjoining site to the south is a Protected Structure (RPS Reg. 631).

5.2. **Natural Heritage Designations**

None relevant.

5.3. **EIA Screening**

5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows:

- There are no specific provisions in the current county development plan in relation to wall murals.
- The mural has a footprint / area of 1.5m² and the cottage gable an area of 21m² and the mural covers approximately 7% of the overall gable area.
- The mural theme is passive and is not distracting and does not impact on road users.
- The mural does not detract from the character of the building or the streetscape.
- The mural is 30 metres from the church and separated by an infill site and does not detract from the church.
- The local authority has been supportive of larger murals in close proximity to protected structures and photographs in relation to this are submitted.
- The applicants/appellants intentions in commissioning the mural were genuine and heartfelt of a deceased friend which is at an unassuming scale on the gable.

6.2. Planning Authority Response

None received

6.3. Observations

6.3.1. Elaine Holmes in an observation indicates,

- The mural depicts her late uncle and permission/consent of his family was not sought and has caused deep emotional distress to the family.
- The applicants are renting the house and executors of her uncle's estate has requested the removal of the mural and the applicants have refused to do so.

6.3.2. Mary Holmes and Donal Foley in an observation indicate,

- The has caused deep emotional distress to the objectors and their family.
- The applicants never contacted the family.
- The applicants have defaced the property.
- The mural is a distraction to road users.
- The mural defames and belittles the deceased.
- The applicants have been approached by the executor with a request to remove the mural and have shown a complete disregard for the family.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the planning authority's reason for refusal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- The reason stated in the planning authority's decision for refusal
- Appropriate Assessment

7.2. **The reason stated in the planning authority's decision for refusal.**

7.2.1. The reason for refusal as stated refers to the siting of the mural on a prominent elevation of a vernacular dwelling along the main road in the village in close proximity to a protected structure would introduce a feature which detracts from the character of the dwelling, the adjacent protected structure and the streetscape and injure the visual amenity of the area.

7.2.2. There is no clear guidance in the current County Development Plan in relation to wall murals and therefore any assessment would be site specific. The mural is relatively small in scale is 1800 mm in height and 1850mm in width and the lowest section of the mural is approximately 950mm above ground level. It occupies a small section of the overall gable and is not a dominant feature in relation to the gable. The colours applied are subdued and soft toned and it is difficult to state that that is a dominant feature on the gable or that it detracts from the visual qualities of the dwelling on

which it is painted upon. It is also relatively low on the gable and not readily visible when viewed from a distance and is only visible as one approaches the dwelling and it is therefore hard to conclude that it detracts from the streetscape. It is also screened by planting on the lands adjoining the dwelling to the south.

- 7.2.3. In relation to its impact on the Protected Structure it is noted that the Church is over 30 metres from the mural. Based on the inspection of the site and its environs including its relationship to the church I do not consider that the mural impacts or in any way detracts from the Protected structure or the character of the Protected Structure.
- 7.2.4. In relation to traffic the site is within a 50kph speed limit and is only visible at a short distance. The road is wide and I do not consider any traffic hazard issue arises.
- 7.2.5. In relation to the submissions received by the observers the content is noted and if there are issues in relation to requiring consent to paint the mural this matter can be addressed as a civil matter.

7.3. Appropriate Assessment Screening

- 7.4. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

- 8.1. I recommend that permission for retention be granted.

9.0 Reasons and Considerations

Having regard to the nature and scale of the development it is not considered that the development detracts from the visual amenities of the area and the streetscape and the nearby Protected Structure and the development does not adversely impact the character of the area or is seriously injurious to the visual or residential amenities

of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

1.	The grant of permission is for the retention of development in accordance with the plans and particulars lodged with the application. Reason: In the interest of clarity.
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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.

Derek Daly
Planning Inspector

20 June 2023