



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314736-22

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<b>Development</b>	Retention of alterations to height of dwelling house as constructed and for external finishes and landscaping conditioned under planning reference PL20/730
<b>Location</b>	Cloghaundine , Liscannor, Co Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	22635
<b>Applicant(s)</b>	Trisha and Kevin Scales
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Trisha and Kevin Scales
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	14/02/2023
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Cloghaundine, approximately 1.5km west of Liscannor in County Clare. The site is located c. 300m north of Liscannor Bay.
- 1.2. The site is located off a narrow poorly surfaced laneway/road c. 250m south off the L-1068 local road and a further c. 650m southwest of the R478 Regional Road connecting Lahinch Liscannor and around to the N67 National Road just south of Lisdoonvarna.
- 1.3. The site is currently under development with a house nearing completion. The adjoining site to the north includes a single-storey dwelling. The site has a stated area of 0.53 ha.

## 2.0 Proposed Development

- 2.1. The application is for retention of-
  - alterations to height of house
  - external finishes and
  - landscaping
- 2.2. Unsolicited information was submitted by the applicants on the 19/05/22 in relation to a third party submission.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to refuse permission on the 06<sup>th</sup> of September 2022 for one reason-

- *The subject dwelling is located within an area designated as a 'Heritage Landscape', where it is an objective of the Development Plan as outlined in objective CDP 13.5 that proposed developments must demonstrate that every effort has been made to reduce visual impact from site selection through to*

*details of siting and design. It is considered that the proposed retention by reason of its height and design in this exposed and elevated site would represent a visually obtrusive feature in the landscape and result in the dwelling being a prominent landmark clearly visible when viewed over a wide area. It is considered that the development, if retained, would seriously injure the amenities of the area would therefore be contrary to the objective of the County Development Plan and the proper planning and sustainable development of the area.*

## **4.0 Planning Authority Reports**

### **4.1. Planning Reports**

The reports of the Planning Officers reflects the decision of the Planning Authority. The following is noted-

- The proposed retention by reason of its height and design located in the exposed and elevated site would represent a visually obtrusive feature in the designated 'Heritage Landscape' and result in the dwelling being a prominent landmark clearly visible when viewed over a wide area.
- The proposed retention constitutes a significant material departure from the house design approved for the site which if originally proposed would not have been acceptable.
- The potential impact on residential amenity cannot be assessed given the lack of clarity in the drawings received to date.
- The need for EIA can be excluded at preliminary examination and a screening determination is not required.
- The proposal is not likely to have a significant effect individually or in combination with other plans and projects on European Sites.

### **4.2. Other Technical Reports**

- West Clare Municipal District
  - 16/08/22- No observations

#### 4.3. Prescribed Bodies

- None

#### 4.4. Third Party Observations

There was one third party submission from Gillian Foley and Garrett Taylor owners of the property to the north of the application site. The submission can be summarised as follows-

- The proposal to be retained involves works that impact the overall height and floor level of the house in comparison to their property.
- The increase in building height would appear to create a significant increase in loft space and volume with potential for living accommodation which could be developed without planning.
- The overbearing visual and physical impact of the development impacts upon the amenity of their existing property. Future windows could create overlooking further reducing amenity.
- The design intent of the original design was to reduce the visual impact in the area and upon the neighbouring house.
- Details from the original planning assessment are referred to.

#### 5.0 Planning History

- This Site-
  - 20/730- Permission for a house **grant**- 05/12/20
    - ABP-308867-20- Leave to Appeal **grant** 12/01/2021
    - ABP-309218-21- Dealt with under section 139- **Amend** condition 1 and **Remove** condition 3 (a)- 19/07/2021
  - Enforcement- 22/23- Warning Letter served 19/05/22, non-compliance with condition 1 (standard), condition 5a (external finishes) and condition 10 (landscaping).

- Nearby Site (opposite side of road)
  - 21/1029- Permission **Refused** for house (18/11/2021) for five reasons, local rural housing need, impact on residential amenity in the area, injure amenities of the area contrary to objective CDP 13.5, flooding and contrary to objective 18.6 and traffic hazard.

## 6.0 Policy Context

### 6.1. Clare County Development Plan 2017-2023

6.1.1. Map 13A: Landscape Designations- The site is located in a 'Heritage Landscape'.

- CDP13.5 Development Plan Objective: Heritage Landscapes
  - *It is an objective of the Development Plan: To require that all proposed developments in Heritage Landscapes demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal – from site selection through to details of siting and design. All other relevant provisions of the Development Plan must be complied with.*

*All proposed developments in these areas will be required to demonstrate:*

- *That sites have been selected to avoid visually prominent locations;*
- *That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads;*
- *That design for buildings and structures minimise height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development.*

6.1.2. Scenic Routes- CDP13.7-

*Development Plan Objective: Scenic Routes*

*It is an objective of Clare County Council:*

- a. To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;*
- b. To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact;*
- c. To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.*

The R478 from Lahinch, through Liscannor to south of Lisdoonvarna is identified as a scenic route in Map C Landscape Designation of the County Development Plan. This is also shown in map 13A. The site is located c. 850m south of the R478.

## **6.2. Natural Heritage Designations**

There are no relevant designated areas within the immediate vicinity of the site. The site is located-

- c. 2.5km west of Inagh River Estuary SAC (000036)
- c. 3.6 km east of Cliffs of Moher SPA (004005)

## **6.3. EIA Screening**

6.3.1. Not applicable.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

A first party appeal has been received. The grounds of appeal can be summarised as follows-

- The reference in Planners Report to 21/1029 and its refusal is discussed.

- The Applicants home was permitted by ABP under 309128 and it was noted the location would not have an adverse impact on amenity of adjoining dwellings.
- Levels at the site were established prior to the appeal. There is an increase in height of 950mm above granted finished floor level.
- A number of drone images have been taken and submitted showing the impact of the house on the landscape. The increase in ridge height does not have a significant impact on the landscape.
- Reference is made to other dwellings in the area that have more of a visual impact on the Heritage landscape.
- The design has not changed in relation to its siting and overall elevational treatment.
- The concern of the third party submission appears to be the possibility for future conversion of roof space to accommodation. The method of roof construction does not allow for this. Installation of rooflights to any habitable room would only be exempt to the rear of the dwelling and planning would have to be sought.
- The applicants would be happy to accept a condition restricting conversion of such space without recourse to the planning authority.
- Due to the existing hedge to the front west boundary of the neighbours property, their view and aspect has not been impacted.
- The works subject to this application were carried out due to the financial impact of cost escalation. The applicants were unaware of the planning implications.

## 7.2. Planning Authority Response

The Planning Authority's response to the grounds of appeal can be summarised as follows-

- The reason for the alteration in height and cost of building materials are acknowledged.

- The drone photographs of other houses in the vicinity are noted. Some of these houses were granted having regard to the current Clare County Development Plan 2017-2023 (as varied) and some date from prior to this period.
- It is not considered reasonable to compare house types which were constructed in the past under the policy provisions of previous development plans, with the current proposal.
- It is not instructive to compare house type design and heights where there is variation in the topographical nature and aspect of each site. Such differences will be evident on inspection. The levels of the subject site are higher than the levels of most of the other examples identified by the applicant.

### 7.3. **Observations**

- None

## 8.0 **Assessment**

### 8.1. **Introduction**

8.1.1. Having examined the application details and all other documentation on file, including the appeal, having inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Refusal Reason 1-
- Appropriate Assessment.

### 8.2. **Refusal Reason 1-**

8.2.1. The Planning Authority refusal reason generally considers the development to be retained would seriously injure the amenities of the area would therefore be contrary to objective CDP13.5 of the County Development Plan (CDP) in relation to 'Heritage Landscapes'.



- 8.2.2. The Applicants consider the proposal to be retained does not have a significant impact on the landscape.
- 8.2.3. The drawings submitted with the permitted house on this site (20/730 & 309218) show a ridge height of 4.5m to ground level (GL), a roof height (RH) of 103.50 and a finished floor level of 99.225 (FFL). The roof appears to be shown finished with 'grey/black roofing finish'. Condition 5 (a) of that permission required details of all external finishes including the roof to be agreed.
- 8.2.4. The drawings submitted with the subject application/appeal show a ridge height of 5.6m a roof height (RH) of 104.675 and a finished floor level of 99.075 (FFL). The roof is now finished in dark coloured slates.
- 8.2.5. In the cover letter accompanying the application and the details set out in the appeal, the Applicant sets out the reason for the changes in the roof profile and the choice of finishes. The cover letter explains the Applicants did not submit a schedule of proposed finishes as required by condition 5a. This application proposes retention of and use of natural Liscannor Stone, goosewing grey windows and doors, white render finish to external walls dark coloured roof slates, grey or black aluminium rain waterpipes.
- 8.2.6. The Applicants also did not submit a landscaping plan as required under condition 10. The cover letter details the submission of a landscaping plan with a schedule of plants prepared by a Horticulturist including hedging, trees and meadow grass and wild flowers. A landscaping plan drawing is submitted.
- 8.2.7. I have given consideration to the provisions of Objective 13.5 of the CDP and note the sites context within the 'Heritage Landscape' as well as its proximity to the scenic route along the R478. I have also had regard to the pattern of development in the general and wider area, some of which have not been permitted under the provisions of the current development plan.
- 8.2.8. I do not consider the development to be retained would have a significant or negative visual impact on the 'Heritage Landscape' or the Scenic Route in the context of the permission already granted on the site and therefore would not be contrary to objective CDP13.5.

8.2.9. I have given consideration to the impact of the development to be retained on the residential amenities of adjoining properties in the area. The neighbouring house to the north appears to have its primary private amenity space on its southern elevation which will be looking southwards over the access driveway of the house being retained and to Liscannor Bay. Other private amenity space to the rear of the neighbours house (west elevation) is screened by existing hedging but in any event is forward of the front building line of the house subject to this application and appeal. I note the Applicants indication they have no objection to a condition restricting the use of their attic space. However, such a condition is not necessary due to the permitted siting of the house. I do not consider the development to be retained would have a significant or negative impact upon existing residential amenity.

8.2.10. The landscaping plan set out in the application cover letter details 4 Ash and 3 Hazel Trees 2.0m high are proposed. The 'Site Plan & Landscaping Plan' shows 4/5 trees, 3 of which would appear to be located in the line of sight from the neighbouring properties private amenity space to Liscannor Bay and potentially could impact upon residential amenity in the area. The location of trees should be more carefully considered, however I am satisfied this can be adequately addressed through condition.

8.2.11. Having regard to all of the above, I consider the Board should not uphold the Planning Authority's refusal reason.

### **8.3. Appropriate Assessment**

8.3.1. Having regard to the nature of the development to be retained and its separation distance to any European site it is considered that no Appropriate Assessment issues arise and the development to be retained would not be likely to have a significant effect individually or in combination with other plans or projects on any designated European site.

## **9.0 Recommendation**

9.1. I recommend that retention permission is granted subject to the following conditions.

## 10.0 Reasons and Considerations

Having regard to the location of the development to be retained within a 'Heritage Landscape' and its proximity from the R478 Scenic Route as detailed in the Clare County Development Plan 2017-2023 (as varied), the permitted development at the site, the scale and extent of the development to be retained, the nature of the receiving environment, the pattern of development in the vicinity and subject to compliance with the conditions set out below, it is considered that the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be retained out and completed in accordance with the plans and particulars lodged with the application on the 14<sup>th</sup> day of July 2022, 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 comply with the conditions attached to the permission granted under Planning Reference Number 20/730 (as amended by Board Order ABP-309218-21) except as amended in order to comply with the attached conditions.

Reason: In the interest of clarity.

3. Landscaping of the site shall be carried out in accordance with a comprehensive landscaping scheme which shall be submitted to and agreed in writing with planning authority within one month of the date of this Order.

Reason: In the interest of the amenities of the area.

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Adrian Ormsby

Planning Inspector

16<sup>th</sup> of February 2022