



An
Bord
Pleanála

Inspector's Report ABP-315668-23

Development

Retain extended domestic garage and wet room on ground floor and first floor workshop and store.

Permission to construct elevation and window design changes.

Location

Private road off R551 at Ballinprior, Ardfert, Co. Kerry.

Planning Authority

Kerry County Council.

Planning Authority Reg. Ref.

22/1124.

Applicant(s)

Paul Shanahan.

Type of Application

Retention and Permission.

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party.

Appellant(s)

First Party – Paul Shanahan.

Observer(s)

Shane O'Connor on behalf of owners of adjoining dwelling.

Date of Site Inspection

2nd July 2023.

Inspector

John Bird

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1.0 Site Location and Description

- 1.1. Access is by a private road on the west side of the R551 between Ardfert and Ballyheige. The road crosses a bridge in an area marked “liable to floods” on the 6-inch Ordnance Survey Map. Turning north-west, the road bounds the coastal Akeragh, Banna and Barrow Harbour Special Area of Conservation (Code 000332). The unsurfaced road had to be navigated pothole by waterfilled pothole. A river runs parallel to the back of the site. The river eventually turns west, passing through the Special Area of Conservation, to enter the sea at Black Rock.
- 1.2. As this is primarily an Application for Retention, a more detailed description of the site and building will be given in the Assessment.

2.0 Proposed Development

- 2.1. A Previous Permission was Granted for a garage and wet room with an attic storage space accessed by an attic ladder. Reg Ref 18/689 refers.
- 2.2. The current Application is to: -
 - (1). Retain additional floorspace to the garage and wet room and to retain access stairs to a first-floor workshop and store over the entire of the extended ground floor. The wet room would have a toilet and washbasin.
 - (2). Permission to re-clad three facades in green metal sheeting and to make various alterations to windows.
- 2.3. Water supply is stated to be from existing public mains.
- 2.4. Proposed drainage is to the existing conventional septic tank system – no details are given.
- 2.5. Surface water drainage is to be by soak pit – no details are given.
- 2.6. Application states that there is no known knowledge of flooding.
- 2.7. Proposed landscaping is indicated on the plan, but there is no landscaping plan or schedule.
- 2.8. Unsolicited Further Information was lodged on 11th November 2022 – no design changes or new issues.

3.0 Planning Authority Decision.

3.1. Refuse permission for one Reason: -

- Bulk and height in open location creating an obtrusive feature in the landscape.
- Negative impact on amenities and values of residential property in the vicinity.
- Contravenes stated Objectives of the County Development Plan.

3.2 Planning Authority Reports: -

3.2.1 Planner's Report: -

- Details many changes from the Permission Granted under Reg Ref 18/689.
- States that the Bio-diversity Officer has no objection in principle.
- Expresses concern that the building could be used as a dwelling unit.
- Notes Enforcement File No. EF7850.

Other Technical Reports.

3.2.2. Bio-diversity Officer concludes that there should be no negative impact on the Akeragh, Banna and Barrow Harbour SAC.

3.2.3 The Application was referred to Statutory Bodies – no responses on file.

4.0 Planning History

4.1 Relevant Planning History.

Reg Ref 2635/05. Permission Granted for single storey bungalow with proposed septic tank and Puraflo modules. The modules extended to

less than 10 metres from the stream. Condition No.12 (ii) (a) and (b) required a minimum 10m setback.

Reg Ref 18/689. Permission Granted for domestic shed. Drawing shows a double garage for car and boat storage with attic ladder access to an attic store in the roof triangle. An internal door through a partition wall gives access to a “wet area” where a surfboard is shown. Off this area is a “wet room” with toilet and washbasin. The toilet window is shown on plan, but not on the north-east elevation drawing. There is a door from the wet area to the garden. The north-east wall of the wet area is described as “wet gear and domestic storage etc.”

Permission Conditions exclude use for commercial, habitation or agricultural use and no separate disposal of house and shed.

Reg Ref. 19/612. Permission to Retain shed. The building dimensions and internal layout are essentially as shown on the current Appeal File. Permission to Retain was Refused. The Reason given under the County Development Plan 2016-2022 was broadly similar to that in the current Appeal File, which was Refused under the County Development Plan 2022-2028. There was no Appeal.

Reg Ref. 22/1144. Application to retain shed etc. Except for changes to the cladding and fenestration there are no significant changes proposed

to the building envelope. Permission was refused, as summarised at 3.1 above.

5.0 Policy and Content

5.1. Development Plan

Landscape Objectives of the Kerry County Council County Development Plan 2022-2028 are referred to in the Reason for Refusal to Retain.

A preliminary search of www.floodinfo.ie CFRAM River Flood Extents Present Day suggests that in relation to the Ballinprior area, the river and bridge is affected, while the CFRAM Coastal Flood Extents Present Day appears to affect the site itself.

5.2. Natural Heritage Designation.

5.2.1. The boundary of the Akeragh, Banna and Barrow Harbour SAC (Code 000332) extends to the south-west side of the access road. See Bio-diversity Officer's Report - no effects.

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

- Similar in height to existing residential properties.
- Broadly, the building was granted permission under Reg Ref 18/689.
- Cladding redesigned and removal of some unauthorised windows.
- Following revisions, structure will not negatively affect the area, or adjoining private amenity space.

6.2. Applicant Response

- None on file.

6.3. Planning Authority Response

- None on file.

6.4. Observations

- Windows will give intruding views over Observer's property.
- Loss of privacy.
- Structure towering, due to additional 0.6 metres in height, over Applicant's house and Observer's house.
- Major effect on visual amenity of the area and the view from Observer's property.

6.5. Further Responses

None.

7.0 Assessment

7.1 This is primarily an Application for Retention, where there is very little information supplied by the Applicant. From my inspection of the site and the inside of the building, New Issues arise.

7.1.1 New Issues

- Increased floor area / intensification of use (in an area liable to flooding) leading to increased movements over an unsurfaced private lane not taken in charge. Risk to public and private users of the lane.
- Apparent additional water and drainage connections without any indication that uses in the existing house will be suppressed to compensate. In the event of Retention the drainage systems should be re-evaluated.
- No details of surface water soak pits, or of the condition, capacity, and maintenance of the existing wastewater treatment plant.
- No information given in relation to potential flooding. Potential risk to waste water treatment system.
- Should Permission to Retain be Granted in the absence of evaluation of the wwts and any necessary upgrades, the possible effects on the SAC should be re-evaluated.
- Little screening vegetation appears to survive in this coastal area.

As none of these wider issues are directly related to the substance of the Refusal or the Appeal, I mention them only so that they may assist the Bord should it decide to grant a permission to retain.

7.1.2. On inspection, the existing house has now been painted green, except for the stone clad breakfront, which is replicated on the front (south-west) façade of the new

structure. After rain, the ground was firm as I walked to the river, which was below site level. As vegetation covered the site, only vent pipes could be seen in the wastewater treatment area. Seen from the river bank, the structure had an appearance similar to the gable of a 2-storey dwelling.

Inside the structure I noted the following, most of which are shown on the attached photos: -

- Separate side doors to wet area and garage and side window to garage.
- Block wall in place of partition shown on lodged plans. Plastered on wet area side, painted on garage side.
- Omission of opening shown on Reg Ref 18/689 between boat storage and wet area.
- Unfinished connections on north-east wall of wet area.
- Dog-leg domestic style wooden stairs to 1st floor workshop and store.
- Domestic style furniture stored in 1st floor workshop area, which had not yet been fitted out as such.

7.1.3. Bearing in mind the changes proposed by the Applicant, I have considered several ways in which the development might be modified to make it more suited to the stated uses, lessen its visual impact, and reduce its impact on the residential amenity of the Observer. These could include the logical re-introduction of a door between the boat storage and the wet area, and the replacement of the dog-leg

stairs by a straight metal flight more appropriate to workshop and storage use. Additional northlights could be provided to serve the workshop and store.

The removal of the stairs and upstairs floorboards could reduce the floor area. Both gable windows could be omitted to avoid the appearance of a 2-storey house and additional green metal sheeting could replace the discordant front façade.

Other alternatives would be to remove the upper floor while permitting the extended ground floor or reducing the structure to the size permitted under Reg Ref 18/689, a Permission that will shortly expire. Any reduction in building size or its removal would raise reuse, salvage and waste disposal issues as well as carbon reduction considerations.

7.1.4. While there is some subjectivity in considering the impact of any structure in a landscape, the Planning Authority's view is that, even with the modifications proposed by the Applicant, the Application to Retain should be refused. The Planning Authority is in a position to take a countywide view, backed by the landscape analysis that preceded the making of the County Development Plan and its experience in implementing the Plan and its landscape objectives.

7.1.4. The structure appears to be well built and insulated and finished to a high standard. I have considered various modifications that might make the development

more compatible with the stated uses and also avoid overloading of the wastewater treatment plant. A prior legal agreement would be desirable.

However, none of the above suggestions address the fundamental concern of the Planning Authority in relation to landscape issues.

I therefore consider that acceptable options are: -

- Refuse Permission to Retain.
- Remove the first floor while retaining the as-built extended ground floor.
- Reduce the building envelope to that permitted under Reg Ref 18/689 Granted under the 2016-2022 CDP. This permission will expire shortly.

In view of the many issues raised and the overall lack of information, I consider that the Decision to Refuse Permission should be upheld, in accordance with the Reason given by the Planning Authority.

I can see no national or local strategic or economic reason why the unauthorised structure should be retained.

7.2 Appropriate Assessment Screening

Having considered the proximity of the Akeragh, Banna and Barrow Harbour Special Area of Conservation (Code 000332) and the Bio-diversity Officer's Report, which considers that there should be no impact thereon, and having regard to the nature

and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of the receiving environment and 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 AA at an initial stage.

8.0 Recommendation

- 8.1. That Permission to Retain should be Refused generally in accordance with the Reason given by the Planning Authority.

9.0 Reasons and Considerations

- 9.1. 1. Having regard to the bulk, scale and height of the unauthorised structure, as well as the open location of the local environment, it is considered that the development it is proposed to retain forms an obtrusive feature in the landscape at this location, would seriously injure the visual amenities of the area and would fail to be adequately absorbed and integrated into the landscape. The proposed development would, in addition, have a negative impact on the amenities and values of residential property in the immediate area. The proposed development would, therefore, materially contravene Objectives KCDP 11-77 and KCDP 11-78 of the Kerry County Council County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

10.0 Conditions

- 10.1.

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.

John Bird
Planning Inspector

13th August 2023.