



An  
Bord  
Pleanála

## Inspector's Report ABP-315979-23

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<b>Development</b>	To retain the development consisting of the replacement of 3 No. existing Velux windows on the front elevation with a flat dormer window to dwelling.
<b>Location</b>	Rhynagonnaught, Doonbeg, Co. Clare, V15 H959.
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	P22-1112
<b>Applicant(s)</b>	Helen Moroney
<b>Type of Application</b>	Permission for Retention
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant(s)</b>	Christopher Honan
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	10 <sup>th</sup> June, 2023
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural locality of Rhynagonnaught, Co. Clare, approximately 1.4km northeast of the village of Doonbeg, where it occupies a position within an existing cluster of housing situated alongside a minor local roadway that affords open views towards the coastline and Doughmore Bay beyond. The surrounding area is characterised by agricultural land interspersed with intermittent instances / groupings of one-off rural housing, farmyards and associated outbuildings, while the broader topography falls in a north / north-easterly direction towards the shoreline.
- 1.2. The site itself has a stated site area of 0.21 hectares, is broadly rectangular in shape, and is presently occupied by a conventionally designed, dormer-style dwelling house which has been positioned askew to the public road so as to broadly face northwards. It sits atop a rocky platform / outcrop on more elevated lands relative to those further north and is bounded by existing housing (comprising extended cottages and assorted outbuildings) to the northeast and southwest, agricultural lands to the southeast, and the public road to the northwest. Immediately opposite the site lies a single-storey bungalow (the appellant's property) which would appear to have been subdivided into a pair of semi-detached units.

## 2.0 Proposed Development

- 2.1.1. The proposed development consists of the retention of the replacement of a set of 3 No. velux rooflights / windows within the front roof pitch of an existing dwelling house with a flat-roofed, box-dormer window.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On 7<sup>th</sup> February, 2023 the Planning Authority issued a notification of a decision to grant permission for the retention of the proposed development, subject to a single condition which requires the development to be retained in accordance with the submitted plans and particulars.

## 3.2. **Planning Authority Reports**

### 3.2.1. *Planning Reports:*

Details the site context, planning history and the applicable policy considerations before stating that the development to be retained is acceptable and will not impact on the residential amenity of neighbouring property or the visual amenity of the surrounding area. The report concludes by recommending a grant of permission for retention, subject to a single condition.

### 3.2.2. *Other Technical Reports:*

*West Clare Municipal District:* No comments.

## 3.3. **Third Party Observations**

3.3.1. A single submission was received from the appellant and the principal grounds of objection contained therein can be summarised as follows:

- The overall size and proportions of the dormer window are out of place.
- The dormer window has a detrimental impact on the residential amenity of the appellant's dwelling house by reason of overlooking and an associated loss of privacy.

## 3.4. **Prescribed Bodies:**

None.

## 4.0 **Planning History**

### 4.1. **On Site:**

4.1.1. PA Ref. No. 061771. Was granted on 26<sup>th</sup> October, 2006 permitting Helen Moroney permission for the construction of a new dwelling house, the installation of a new sewage treatment unit and percolation area, a new entrance and associated site works.

## 5.0 Policy and Context

### 5.1. Clare County Development Plan, 2023-2029:

*Chapter 4: Urban and Rural Settlement Strategy:*

*Section 4.2.6: Single Houses in the Countryside*

*Chapter 14: Landscape:*

*Section 14.3.2.1: Settled Landscapes:*

*Criteria for Definition of a Settled Landscape: All lands not classified as Heritage or Working Landscapes.*

*CDP14.2: Settled Landscapes:*

It is an objective of Clare County Council:

To permit development in areas designated as 'settled landscapes' to sustain and enhance quality of life and residential amenity and promote economic activity subject to:

- i. Conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- ii. Selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design which are directed towards minimising visual impacts;
- iii. Regard being had to the need to avoid intrusion on scenic routes and on ridges or shorelines.

Developments in these areas will be required to demonstrate:-

- a) That the site has been selected to avoid visual prominence
- b) That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads.

- c) That design of buildings and structures reduces visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.

(The Board is advised that the subject site is located within a “Settled Landscape” which lies to the immediate south of a “Heritage Landscape” as per ‘Map C – Landscape Designations’ of the Development Plan).

*Section 14.3.2.3: Heritage Landscapes: Heritage Landscape 4: The Coast:*

*CDP14.5: Heritage Landscapes:*

It is an objective of Clare County Council:

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 and the RSES must be complied with. All proposed developments in these areas will be required to demonstrate;

- i. That sites have been selected to avoid visual prominence
- ii. That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads;
- iii. That design for buildings and structures minimises 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.

*Chapter 18: Design and Placemaking:*

*Section 18.3.5: Rural Design*

*Appendix 1: Development Management Guidelines:*

*Section A1.4.1: Rural Residential Development: Siting and Design:*

The Planning Authority wishes to achieve a high standard of house design and siting in the countryside. The Council has prepared the County Clare Rural House Design

Guide to assist those making an application for a new dwelling or an extension to an existing dwelling in the rural area of the county. Whilst each rural site is unique and therefore these guidelines are not intended to be prescriptive, the principles are likely to be relevant in most contexts and applicants and agents are encouraged to use it as a reference document.

## **5.2. County Clare Rural House Design Guide: The essential guide for anybody planning, designing or building a house in rural County Clare:**

*Section 5: Alterations, Conversions & Extensions:*

Roof Scape: It may be possible to use some of this area by the addition of small roof lights or a small window in the gable end, as appropriate. Dormer windows may be acceptable providing they are small, suitably located and in proportion and in style with the existing windows. Building Regulations should be consulted and future storage requirements in lieu of attic space need to be considered.

## **5.3. Natural Heritage Designations**

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Carrowmore Dunes Special Area of Conservation (Site Code: 002250), approximately 330m north of the site.
- The Mid-Clare Coast Special Protection Area (Site Code: 004182), approximately 330m north of the site.
- The White Strand / Carrowmore Marsh Proposed Natural Heritage Area (Site Code: 001007), approximately 1.0km east of the site.

## **5.4. EIA Screening**

5.4.1. Having regard to the nature and scale of the development proposed for retention, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the development proposed to be retained.

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. Grounds of Appeal**

- The dormer window proposed for retention is very large and overlooks the appellant's dwelling house giving rise to a loss of privacy and residential amenity.
- By way of precedent, the Board is advised that previous planning applications to install windows within the roof areas of dwelling houses in the surrounding area have been refused permission by the Planning Authority.
- The site notice initially erected on 7<sup>th</sup> December, 2022 named the applicant as 'Helen Moroney' despite being signed by 'Helen Eustace'. However, following the querying of this discrepancy with the Local Authority, a second site notice dated 5<sup>th</sup> December, 2022 was subsequently erected which detailed the applicant as 'Helen Moroney' and was similarly signed by 'Helen Moroney'. The erection of this latter site notice denied the people of Rhyngonnaught a period of two days during which they would have been entailed to have lodged a submission / observation on the subject application.
- Given that the applicant (Helen Moroney) has been married to Mr. Michael Eustace for over 40 No. years and as her name must therefore be Mrs. Helen Eustace, it is queried whether it is permissible for the subject application to have been lodged by 'Helen Moroney' as opposed to 'Helen Eustace'.

### **6.2. Applicant's Response**

- The dwelling house as originally permitted under PA Ref. No. P061771 included for the provision of two sets of velux-type windows within its northern elevation. One set of these velux windows has recently been replaced with a flat dormer-type window which is smaller in size than the original window construction.

- The appellant has indicated that he is required to close his blinds at all times in order to maintain the privacy of his property. In this regard, it should be noted that the applicant and all her neighbours leave their blinds open during daylight hours and that the appellant similarly keeps his blinds open as is shown on the accompanying photographs.
- The change in window type makes no difference to the view of the appellant's property from the applicant's dwelling house.
- With respect to the suggested precedents offered by the appellant, there is no record of any such planning applications in the Clare County Council Planning Register having been made in the area.
- The site notice erected complied with all statutory requirements. Any concerns in this regard are a matter for the Planning Authority.
- This is a vexatious appeal which should be dismissed.

### **6.3. Planning Authority Response**

- The issues raised in the grounds of appeal have already been adequately addressed in the report of the case planner.
- Having regard to the rural nature of the site, the intended use of the existing building, the relevant Section 28 Ministerial Guidelines, the policies of the current County Development Plan, and the pattern of development in the area, it is considered that, subject to conditions, the development proposed for retention would not seriously injure the amenities of the area or of property in the vicinity.

### **6.4. Observations**

None.

### **6.5. Further Responses**

None.



## 7.0 Assessment

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- The merits of the third-party appeal
- Impact on residential amenity
- Overall design and visual impact
- Procedural issues
- Appropriate assessment

These are assessed as follows:

### 7.1. The Merits of the Third-Party Appeal

- 7.1.1. With regard to the applicant's request for the Board to dismiss the third-party appeal pursuant to the provisions of Section 138(1) of the Planning and Development Act, 2000, as amended, on the basis that said appeal is 'vexatious', having considered the grounds of appeal, I am satisfied that they raise legitimate material planning considerations and thus I propose to assess same accordingly.

### 7.2. Impact on Residential Amenity:

- 7.2.1. The dormer window proposed for retention would appear to have been installed to improve the functionality of a first-floor area which has been inserted into the formerly double-height space served by the original series of 3 No. rooflights. In this regard, it is regrettable that further clarity has not been provided as to the usage of the first floor space served by the new window construction. Nevertheless, while I would acknowledge the appellant's assertion that the installation of the aforementioned dormer window will detract from the residential amenity and enjoyment of his property by reason of overlooking with an associated loss of privacy, in my opinion, given the site context, including its location within a cluster / amalgamation of individual houses where some degree of overlooking would not be unexpected, the separation distance of approximately 30m between the front elevations of the existing dwelling house and the appellant's property, the presence of an intervening public road between the properties in question, and the broader relationship between the subject site and the appellant's dwelling (in reference to the

positioning of the subject dwelling askew to the public road and its oblique orientation relative to the property opposite), I am satisfied that the development to be retained does not give rise to any appreciable difference in the aspect / outlook available from the subject dwelling nor does it result in any significant detrimental impact on the residential amenity of neighbouring property by reason of overlooking or a loss of privacy.

### **7.3. Overall Design and Visual Impact:**

- 7.3.1. Having regard to the minor nature and scale of the development to be retained, the broader pattern of development in the surrounding area which includes a variety of dormer-style dwelling houses, and the site location within an existing cluster of houses and outbuildings, it is my opinion that the visual impact of the proposal will be minimal and will not detract from the amenity or character of the receiving landscape.

### **7.4. Procedural Issues:**

- 7.4.1. In relation to the correct identification of the applicant on the site notice and the apparent erection of two different notices, the Board is not resourced to verify the bona fides of any particular party involved in the planning process and any such action would be the exception. In any event, it is my opinion that procedural matters, such as a determination as to the adequacy (or otherwise) of the public notices and the subsequent validation (or not) of a planning application, are generally the responsibility of the Planning Authority which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements. It should also be noted that the Board is not empowered to correct any procedural irregularity which may have arisen during the Planning Authority's assessment of the subject application. Moreover, it would appear that the alleged discrepancies identified by the appellant did not prejudice his ability to make a submission on the planning application or to lodge the subject appeal.

### **7.5. Appropriate Assessment:**

- 7.5.1. Having regard to the nature and scale of the development proposed for retention, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development proposed to be retained would not be likely to have a

significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## 8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission for retention be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

## 9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Clare County Development Plan, 2023-2029, the planning history and established use of the site, and to the minor scale, form and design of the development proposed for retention, it is considered that, subject to compliance with the conditions set out below, the development to be retained would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity. The development to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application.

**Reason:** In the interest of clarity.

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Robert Speer  
Planning Inspector

11<sup>th</sup> June, 2023