



An
Bord
Pleanála

Inspector's Report

ABP-317207-23

Development	Construction of a sunroom extension and associated site works to adjoining house.
Location	Ballyvrislaun (Townland), Liscannor, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	2360064
Applicant(s)	Michael and Della Malone
Type of Application	Permission
Planning Authority Decision	Grant subject to Conditions
Type of Appeal	Third Party
Appellant(s)	Therese McMurray Hewlitt
Observer(s)	None
Date of Site Inspection	19 th December 2023
Inspector	Ciara McGuinness

1.0 Site Location and Description

- 1.1. The site which is occupied by a detached bungalow dwelling is located in the townland of Ballyvrislaun, approximately 3.2km north of Liscannor. The site is bound to the east by an existing dwelling, and to the west by an undeveloped site which is the subject of a current planning appeal for a dwelling house (ABP-315854-23). Access to the site is from the L5146 local road.
- 1.2. The site area is stated as 0.208ha. The site has frontage to the local road to the north. Ground levels fall away from the road towards the rear of the site. There are 2 no. entrances to the dwelling. The entrance/driveway to the west of the site is currently the subject of an unresolved boundary dispute. It is noted that this area of land does not form part of the site boundary for the subject appeal.

2.0 Proposed Development

- 2.1. The proposed development is for the construction of a sunroom extension to the western side of the existing dwelling. The proposed extension has a stated floor area of 26.24sqm and a ridge height of 4.78m. Materials and finishes will match the existing dwelling with sand/cement render, blue/black roof tiles, and white doors and windows proposed.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission subject to 3 no. conditions of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report noted that there is no objection in principle to the proposed development having regard to the pattern of development in the vicinity.

Furthermore, there is no objection to the proposed development on grounds of residential amenity. It is recommended that permission is granted.

3.2.2. Other Technical Reports

West Clare Municipal District Office: No observations

3.3. Prescribed Bodies

None

3.4. Third Party Observations

A submission was received from the appellant, Therese Hewlett McMurray, the owner of the adjoining site to the west. The issues raised reflect the grounds of appeal and relate to legal interest, residential amenity and procedural issues.

4.0 Planning History

Application Site

P.A. Reg Ref 08/1500: Permission granted in December 2008 to retain garage adjacent to existing house.

Adjoining Site to the West

P.A. Reg Ref 02/475: Outline Permission refused in August 2002 to construct a dwelling house.

P.A Reg Ref 22/540: Notification of decision to grant issued by Clare County Council in January 2023 for the development of a dwelling house with proprietary wastewater treatment system and percolation area together with ancillary site works. Appealed to the Board under ABP-315854-23. (Concurrent Appeal)

The Planner's Report also makes reference to a Section 5 application which relates to the applicants entrance/driveway (not included in the site boundary of the subject appeal) ;

P.A. Reg Ref R22/32: Whether a drive way constructed by Michael and Della McNamara alongside the west elevation of their dwelling at Ballyvrilaun is development and if so is it exempt development. The Planning Authority concluded that the construction of the entrance and driveway is development and is not exempted development.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is located within the Ballyvrisluan Cluster. A 'Cluster' is the smallest type of settlement in the County's hierarchy and their character reflects traditional building patterns with a loose collection of rural dwellings, clustered around one or more focal points. The following objective relates;

Development Plan Objective: Clusters CDP 4.9 It is an objective of Clare County Council: To ensure that clusters throughout the county maintain their existing character providing only for very small scale growth of dwellings and/or small enterprises where they can be suitably integrated with respect to the setting and context

- 5.1.2. The site is also located in a Settled Landscape. The following objective relates;

Development Plan Objective: Settled Landscapes CDP14.2 - 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.

5.2. Natural Heritage Designations

Cliffs of Moher (SPA 004005) – 1.1km west of the site

Cliffs of Moher pNHA (000026) – 1.4km to the west of the site

Inagh River Estuary SAC (000036) – 3.4km to the southeast of the site

5.3. EIA

- 5.3.1. See Form 1. Not a class and no EIA Screening requirement.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was submitted by Therese McMurray Hewlitt, the landowner of the adjacent lands to the west. The main points of the appeal can be summarised as follows;

- The proposed sunroom appears to not fit onto the Folio CE28229F registered to the applicants. The appellant is concerned that the proposal will encroach onto an area of 4m on her folio CE10211F which has already been illegally trespassed by the applicant to construct a second driveway. The appellant makes reference to a previous planning application which was withdrawn (P.A. reg ref 22/334), which was based on further encroachment of this illegally trespassed area.
- The contiguous site elevation submitted with the planning application identifies the adjoining site as ‘adjacent agricultural land’. This is incorrect. The adjoining site has been granted planning permission under P.A. reg ref 22/640. It is noted that the applicants have appealed this decision.
- The west facing windows of the sunroom are overwhelming in size and face directly onto the planned dwelling permitted under P.A. reg ref 22/640.

- The proposed extension affects the privacy, right of enjoyment and amenities of the neighbouring inhabitant of the planned dwelling.
- The proposed sunroom extension boundary will be too close to the unresolved boundary dispute.
- The site notice was not erected on the stated date and was not maintained in place in accordance with the Planning Regulations.

6.2. Applicant Response

None.

6.3. Planning Authority Response

- The appellant is concerned the proposed development will encroach onto her Folio CE10211F. The Planning Authority understands that the drawings and details received as part of the application are accurate having regard to extent of ownership, site size and configuration. The applicant was advised of the provisions of Section 34(13) of the Planning & Development Act 2000, as amended, and to ensure that they have sufficient legal interest to carry out this development.
- The Planning Authority does not consider the labelling of the adjacent site as 'adjacent agricultural land' as misleading as this is the current use of the lands. The Planning Authority is aware of the planning history on the adjoining site.
- It is not considered that the west facing elevation of the sunroom affects the privacy, right of enjoyment or amenity of the dwelling granted permission under P.A. reg ref 22/540 having regard to the design of the east facing elevation, the position of the dwelling on site relative to the dwelling which is the subject matter of this application and having regard to the separation distance between dwellings. The main living space of the dwelling approved under P.A reg ref 22/540 is located on the western side of the house away from the proposed sunroom.

6.4. **Observations**

None.

7.0 **Assessment**

7.1. I consider that the main issues in the assessment of this appeal are as follows;

- Legal Interest
- Residential Amenity
- Other Matters
- Appropriate Assessment

7.2. **Legal Interest**

7.2.1. The appellant is concerned that the proposed sunroom extension will encroach onto her lands (Folio CE10211F). I have reviewed the drawings and consider that the proposal will be located entirely within the applicant's site (Folio CE28229F). I consider the drawings to be accurate. I note that CE1021F is the subject of an unresolved boundary dispute, however I do not consider that any encroachment will occur on these lands. In this regard and in terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of this planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of S.34(13) of the Planning and Development Act.

7.3. **Residential Amenity**

7.3.1. The appellant contends that the west facing windows of the sunroom are overwhelming and face directly onto the planned dwelling on her site. It is also stated that the proposed sunroom will affect the privacy, right of enjoyment and amenities of the neighbouring inhabitant of the planned dwelling to the west. I note that the application for this dwelling is currently the subject of appeal under ABP-315854-23. In the context of the existing house, I consider that the proposed extension is relatively minor in height and scale. The proposed extension would extend

westwards by 3.6m with an overall floor area of 26.24sqm and a ridge height of 4.78m. I note that the existing west elevation also has a large window. The proposed sunroom will maximise views of the expansive landscape to the south/southwest. The sunroom will be constructed with similar finishes to the existing dwelling. Notwithstanding its current status, having regard to the design and layout of the development proposed under P.A. Reg Ref 22/540, I do not consider that the proposal would have any significant impact on the appellant's future privacy or residential amenity.

- 7.3.2. The appellant also contends that the proposed development is too close to unresolved boundary. I have reviewed the drawings and I note that there is a separation distance to the boundary of approximately 0.5m at its nearest point and 1m at its widest point. While the proposed sunroom would be closer to the party boundary than the existing house, I do not consider that the scale and bulk of the proposed extension would be such that it would result in an unacceptable addition that would have a substantial impact on the property to the west. As discussed above in Section 7.2, any issue relating to the party boundary is a civil issue between both parties.

7.4. Other Matters

7.4.1. Procedural Issues

- 7.4.2. In terms of the alleged irregularities with regards to the nature and timing of the erection of the site notice, I note that both matters were considered acceptable by the Planning Authority. I am satisfied that this did not prevent the concerned party from making representations. The appellant has also contended that there are deficiencies in the submitted contiguous elevation drawing. I consider the drawings to be acceptable and to provide an accurate representation of the proposal and surrounding context. I consider that sufficient information has been submitted with the application to allow the Board to come to a decision and that there has been no prejudice to other parties. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

7.5. Appropriate Assessment

- 7.5.1. An Appropriate Assessment Screening Report and determination was carried out by the Planning Authority which concluded Appropriate Assessment is not required. The

site lies 1.1 km to the west of the Inagh River Estuary SAC and 3.4 km to the southeast of the Cliffs of Moher SPA. Having regard to the nature and scale of the proposed development, and the separation distance to any European site, and in the absence of any hydrological or other connections to European Sites, 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

- 8.1. I recommend that planning permission should be for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Clare County Development Plan 2023-2029, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions as set out below, the proposed development would not seriously injure the residential or visual 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>Reason: In the interest of traffic safety and to prevent pollution.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

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.

Ciara McGuinness
Planning Inspector

30th January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Construction of a sunroom extension and associated site works to adjoining house.		
Development Address	Ballyvrislaun (Townland), Liscannor, Co. Clare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No ✓	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____