



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317365-23

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<b>Development</b>	The demolition of an existing building used as a store and the construction of a two-storey dwelling.
<b>Location</b>	7 Centaur Street, Carlow.
<b>Planning Authority</b>	Carlow County Council
<b>Planning Authority Reg. Ref.</b>	22196
<b>Applicant(s)</b>	JC Brenco Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	(1) John Clerkin (2) Marissa Kelleher
<b>Date of Site Inspection</b>	03 <sup>rd</sup> September 2023

**Inspector**

Colin McBride

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.01 hectares, is located at no. 7 Centuar Steer to the north of Carlow town centre. The appeal site is occupied by a two-storey storage building. The structure is part of a streetscape with adjoining structures immediately to the east consisting of a two-storey dwelling to the east and to the west a two-storey commercial structure with a hair salon at ground floor level. Levels on the street fall in an east to west direction.

## 2.0 Proposed Development

- 2.1 Permission is sought for the demolition of an existing building used as a store and the construction of a two-storey dwelling, connection to services and all associated site works. The proposed dwelling has a floor area of 87.6sqm and a ridge height of 7.15m. The dwelling features a pitched roof and a nap plaster finish on the external walls.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission granted subject to 16 conditions. Conditions are standard in nature. Of note are the following conditions...

Condition no. 4: retention of existing stone boundary wall along the rear/northern boundary. Boundary treatment alongside/western boundary to be a 1.8m high concrete block wall, capped and plastered, existing boundary along the side/eastern boundary to be retained.

Condition no. 12: Submission of site-specific demolition, construction and traffic management plan.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Planning Report (02/08/22): Further information required clarification of compliance with the Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities 2007, address concerns regarding impact on adjoining properties, details of boundary treatment, submission of demolition and Construction Management Plan and a Waste Management Plan.

Planning Report (26/05/23): The proposed development was considered acceptable in the context of the proper planning and sustainable development of the area. A grant of permission was recommended subject to the conditions set out above.

### 3.2.2 Other Technical reports

Water Services (19/07/22): No objection.

Transport Section (01/06/23): No objection subject to conditions.

### 3.3. Prescribed Bodies

Uisce Eireann (21/07/22) No objection.

### 3.4. Third Party Observations

#### 3.4.1 Submission by John Clerkin.

- Issues raised include concerns regarding structural impact of demolition on the adjoining property.

#### 3.4.2 Submission by Marissa Kellheher.

- Issues raised include accuracy of plans, impact on existing window, specification of boundary treatment, drainage issue with concern regarding flooding, asbestos and concerns regarding long-term damage.

## 4.0 **Planning History**

No planning history.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

The relevant Development Plan is the Carlow County Development Plan 2022-2028.

The site is zoned Town centre with a stated objective 'to protect, provide for and/or improve town and village centre facilities'.

The site is within the Zone of Archaeological Potential for Carlow Town.

### 5.2 **Natural Heritage Designations**

None within the zone of influence of the project.

### 5.3 **EIA Screening**

5.3.1 Having regard to the nature and scale of the proposed development, comprising of demolition of a storage structure and construction of dwelling and associated site works, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by John Clerkin. The grounds of appeal are follows...

- The appellant raises concerns the status of foundations of the existing structure due its considerable age and whether such are deep enough to withstand the demolition process. The appellant states that there is a large crack in the gable end of his property adjoining the site and that the proposed works will exacerbate such and question who is responsible if damage is caused to his property.

6.1.2 A third party appeal has been lodged by Marissa Kelleher. The grounds of appeal are follows...

- The appellant owns the adjoining property to the west, which is at a lower ground level than the proposed development.
- The appellant raises concerns that the information requested by way of further information has not been submitted and that the applicant did not obtain written consent from the adjoining land owners.
- The appellant raises concerns regarding the impact of the proposed works on her property with concerns regarding water damage.
- The plans submitted are inaccurate in terms of showing details with concern regard the scale of the structure with potential to block a window on the appellant's property.
- There is lack of detail regarding the boundary treatment between the appeal site and the appellant's property.
- The narrow space between the current boundary wall and proposed western gable is inaccessible and render access to the appellant's gable wall impossible.
- Concern regarding damage to the appellant's property.

- The conditions imposed are inadequate and should deal with the boundary wall between the appeal site and the appellant property, be more strongly worded to include reference to avoiding damage to adjoining properties, deal with surface water drainage and require written agreement from adjoining property owners.

## 6.2. Planning Authority Response

### 6.2.1 Response by Carlow County Council.

- No response.

### 6.2.2 Response form the applicant JC Brenco Ltd

- The existing property and neighbouring property are only connected by a roof and a small piece of wall to the front and by roof only to the rear. The construction phase will be overseen by an Engineer with experience and indemnified. The carry out of the works the neighbouring structure would be further supported and stabilized.

## 7.0 Assessment

7.1 Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Structural and physical impact:

7.2 Structural and physical impact:

7.2.1 The proposal is for demolition of an existing structure, which is in storage use and construction of a two-storey dwelling and associated site works. The existing structure is part of an existing streetscape with two-storey structures adjoining (a

two-storey dwelling to the east and a two-storey structure with a hair salon at ground floor level to the west, both being the appellants' properties).

7.2.2 The proposed development is an infill site and the provision of a two-storey dwelling is consistent with the zoning objective and is of a design and scale that fits in well with the existing streetscape and has adequate regard to the amenities of adjoining properties in terms of overall design and scale. The applicant was requested by way of further information to demonstrate that the specification and dimensions of the dwelling was consistent with the Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities 2007. The proposed dwelling was originally proposed to be a three bed dwelling and was revised to a two-bed dwelling in response to further information.

7.2.3 One of the appellants raised concerns regarding impact on a gable window and the potential for the development to obstruct such. The plans submitted show the window in question above the eaves level of the rear portion of the proposed structure with amended drawings changing the design by lowering the pitch of the roof to ensure such does not obscure the existing window.

7.2.4 The issues raised in the appeal concern mainly the structural impact of the proposed development on adjoining properties, how it ties in with existing structures. The applicant submitted a number of documents by way of further information including a Traffic Management and Construction Plan, an Outline Demolition Management Programme and an Outline Construction & Demolition Waste Management Plan. In relation to potential structural impact, the proposal is to demolish an existing structure and construct a new two-storey structure. I can see no reason why appropriate construction and demolition management measures cannot be implemented to ensure that demolition and construction is carried out in a manner that protects the adjoining properties from structural damage. I do not consider that this is a planning issue and would consider that submission and a demolition and Construction Management Plan is sufficient. The onus is on the applicant and landowner to carry out works in such a manner to avoid damage to adjoining



properties and in the case of such happening they would liable for such. This is not planning reason for precluding development as there is no reason to come to conclusion that the construction cannot be managed in manner to prevent structural damage or carry out remedial works in the event of such. I would consider it is appropriate to apply a condition requiring submitted and written agreement of demolition and Construction Management Plan.

7.2.5 One of the appeals raises concern regarding discharge of surface water and potential flooding. I would note that it is not in the applicants' interest to construct a development that has surface water drainage issues that would cause damage to adjoining properties or the proposed development itself. I would consider an appropriate condition requiring surface water to be discharged on site and prevented from discharging onto the public road or adjoining properties would suffice.

7.2.6 The appellant's with the property to the east raises concern regarding a narrow gap between the proposed development and the gable wall and its impact on access to the existing gable. The existing property on site is a terraced property with no gap between adjoining properties. My reading of the plans is that no gap between existing properties is proposed and none of the adjoining properties have ever had free access to the gable of their properties. This issue appears to relate to the gable adjoining the site where the new development projects beyond the building line of the existing store on site. The development is being constructed within the confines of the site and projects to the rear to a lesser extent than the existing property to east. I am satisfied that the overall scale and design of the proposal is satisfactory in the context of pattern and scale of development at this location.

7.2.7 One of the appeal submission raises concerns about the lack of requirement for consent from the adjoining properties. The proposed development appears to be providing the proposed development within the site boundary and there does not appear to be a shared gable wall between adjoining properties and the appeal site. Notwithstanding such the onus is on applicant to ensure that they have the relevant consents if there are party wall issues and this consent is not a planning

consideration. I would Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.

7.2.8 The proposal entails the demolition of an existing storage structure that is of considerable age (not a protected structure or of heritage value) and is in poor condition with no apparent active use adjoining existing buildings with active uses including a dwelling and a business premises. I would consider that the provision of a new dwelling, which constitutes an active use that will hopefully be maintained is an infinitely better situation than the existing properties adjoining a building of poor condition that does not appear to be in active use whose continued deterioration poses a much greater risk to the condition of the appellants' properties. The proposed development subject to appropriate conditions would be in accordance with the proper planning and sustainable development of the area.

## **8.0 Appropriate Assessment**

8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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.

## **9.0 Recommendation**

I recommend a grant of permission subject to the following conditions.

## 10.0 Reasons and Considerations

Having regard to the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities, character or built heritage of the area or residential amenity of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the revised plans submitted on the 10<sup>th</sup> day of May 2023, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The following shall be implemented...

(a) The existing stone wall to the rear of the site (northern boundary) is to be retained.

(b) Boundary treatment along the side boundary (western boundary) to the rear of the dwelling shall be a 1.8m high block wall, capped and rendered.

(c) The existing boundary wall along the side boundary (eastern boundary) to the rear of the dwelling is to be retained.

Reason: In the interest of orderly development.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

5. Surface water runoff shall be discharged on site and shall not be allowed to discharge onto the public road or any adjoining properties.

Reason: In the interest of public health and surface water management

6. The developer shall enter into water and wastewater connection agreements with Uisce Eireann, prior to commencement of development.

Reason: In the interests of clarity and public health.

7. The construction of the development shall be managed in accordance with a Demolition and Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenities, public health, and safety.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of

the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

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.

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Colin McBride  
Senior Planning Inspector

04<sup>th</sup> September 2023