



An  
Bord  
Pleanála

## Inspector's Report ABP-318097-23

<b>Development</b>	Construction of garage and site development works.
<b>Location</b>	Lower Quay, Liscannor, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	221138
<b>Applicant(s)</b>	William and Julie Lynch
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Dolores Bolton
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> April 2024
<b>Inspector</b>	Claire McVeigh

## 1.0 Site Location and Description

- 1.1. The site of the proposed development is located on Lower Quay in Liscannor, County Clare. Liscannor is an attractive coastal village situated on the north shore of Liscannor Bay on the Wild Atlantic Way, located on the main route (R478) between Lahinch and the Cliffs of Moher.
- 1.2. Lower Quay Road comprises a mix of dwelling types, principally single storey, with a few contemporary additions to the existing row of coastal cottages which line the roadway. The subject site of 0.08ha, directly overlooking Liscannor Bay, comprises a detached dwelling of a stated gross floor area of 172.2 sq.m.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a single storey garage (40 sq. metres). It is proposed to connect to the existing public mains for water supply and to the existing public sewer. The application form indicates that proposed surface water disposal is by public sewer/drain and soakpit.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission on 4<sup>th</sup> September 2023, subject to four conditions. These were generally of a standard type.

**Condition 1** Development to be carried out in accordance with the plans and particulars as received by the planning authority on the 15<sup>th</sup> December 2022 and further information on the 14<sup>th</sup> August 2023.

**Condition 2** finishes.

**Condition 3** Surface water shall be collected and disposed of in accordance with the revised details received 14<sup>th</sup> August 2023.

**Condition 4** The proposed garage shall not be used for human habitation, or any commercial activity, or for any other purpose than a purpose incidental to the enjoyment of the dwelling.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Initial report (14/02/23)

- The subject site is zoned existing residential and domestic garages would normally be permitted subject to site suitability.
- Extensive area of hard standing on site and concerns have been raised by third parties regarding surface water flooding, further information sought.
- Further information with respect to the proposed FFL of the garage relative to the buildings adjacent having regard to the issue of visual impact raised by third parties.
- The subject site is located outside of Flood Zone A and B and notes that the applicants state that they have no knowledge of the site ever flooding.
- Excludes the need for EIA at preliminary examination and a screening determination is not required.
- Proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, Appropriate Assessment not required.

Report following submission of further information (30/08/23)

- No objection in principle considering the revised proposals to reduce the garage width (total floor area reduction of 2.7 sq. metres) and the proposals to install a French drain to capture surface water and divert it to an attenuation tank to then discharge to the combined sewer in conjunction with the installation of permeable paving.

#### 3.2.2. Other Technical Reports

*West Clare Municipal District*

- The MD office has no observations in relation to the application.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

There are two third party observations: -

- J P Gilmartin (1 and 4 Liscannor Bay Apartments)
- Dolores Bolton ((3 and 6 Liscannor Bay Apartments)

Both raise issues in respect to existing flooding problems due to surface water run-off, surface water management and potential for overlooking. Ms. Bolton also raises concerns relating to the adequacy of the plans and particulars of application lodged and has concerns that the proposed development will have an adverse impact on the south facing views from their living room.

## 4.0 Planning History

- |        |  |
|--------|--|
| 22-584 | Retention permission granted (September 2022) for alterations to a house, boundaries and ancillary site works as approved under a previously granted planning application (Ref Reg No. 14181).   |
| 14-181 | Permission granted (June 2014) for development which will consist of the refurbishment and extension of an existing bungalow, the house will be extended to the East of the site and the refurbishment will include the addition of a new roof.                      |
| 13-606 | Permission refused (January 2014) for the refurbishment and extension of an existing bungalow. The extension will include the addition of a first floor onto the existing house. The development also includes a proposal for a new garage to the North of the site. |

Apartment 3 & 6 Liscannor Bay Hotel, appellants property northwest of subject site

19-1011      Permission granted (March 2020) for alterations and extensions to the apartments, including the extension of balcony area at first floor level to the rear of the property.

## **5.0 Policy Context**

### **5.1. Clare County Development Plan 2023-2029**

The subject site is zoned 'existing residential' within the settlement boundary of Liscannor. Liscannor is identified as a large village in the settlement hierarchy of the plan.

2.6.4 ...Future developments are required to provide separate foul and surface water drainage, Nature based systems and on site attenuation systems are encourage to utilise green infrastructure solution for sustainable surface water drainage systems where feasible.

#### **Volume 3d West Clare Municipal District Settlement Plans**

The village is connected to the Ennistymon Public Water Supply and there is a public wastewater network in Liscannor.

#### *Flooding and Flood Risk*

The Strategic Flood Risk Assessment in Volume 10c of this plan advises that a coastal protection scheme is underway which will provide some protection to Liscannor, although there will be no defined standard of protection. A strategic coastal erosion plan will also be developed. Redevelopment/refurbishment of existing properties should take into account historical flooding and should seek to minimise flood risk through building resilience measures.

### **5.2. Natural Heritage Designations**

The Inagh River Estuary Special Area of Conservation (SAC) (Site Code 00036) and Proposed Natural Heritage Area is approximately 1.1km to the east of the subject site. The Cliffs of Moher Special Protection Area (SPA) (Site Code 004005) is approximately 5.4 km from the subject site.

### **5.3. EIA Screening**

The proposed construction of a garage does not constitute a project listed in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulations 2001, as amended. As such, no EIAR or Preliminary Examination is required for this element of the project. See completed Form 1 attached.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

One appeal was received from Dolores Bolton, stated owner of apartments 3 and 6 in the apartment complex within Liscannor Bay Hotel north of the subject site. The grounds of appeal can be summarised as follows:

- Natural drainage from the area is to the south and flooding occurs at least 2 to 3 times each winter as water comes down from the higher land to the west, through the appellants lands and onto the subject site.
- Land to the rear of the appellants property do not drain well and the area floods in heavy rain conditions. (Photographs (No. 1 and 2) submitted of flooding).
- Lack of clarity in respect to the application documentation and planner's report on how storm water is proposed to be discharged. Proper site investigations are required to show that the ground conditions are capable of taking the volume of water involved.
- Concerns with respect to the impact of the development on residential amenity in terms of overlooking from proposed windows in western garage wall and the potential negative impact on sea views from the main sitting room. Requests that such windows be omitted or glazed with obscure glass with no opening sections.

### **6.2. Applicant Response**

Response to the two main points of appeal as summarised:

### *Surface water flooding*

- Alleged flooding occurs in land (Folio CE29503F). Landownership of this folio by the appellant is queried by the applicant as the lands are registered to Jordan Atlantic Ltd.
- Details submitted in the appeal appears to indicate non-compliance with condition no. 3 of planning register reference 19/1011.
- Drainage issues have intensified within CE29503F when the development works undertaken under planning register reference 19/1011 and the installation of double height railway sleepers to create flower beds adjoining the boundary with the subject site. These flower beds appear to have contributed to surface water flooding.
- It is not the applicant's responsibility to accept or dispose of rain or surface water being generated in the neighbouring apartment complex.
- Nothing in the proposed development will result affect or block surface water within the subject site nor will it impact on the adjoining properties.
- Further information submitted makes clear that rain/stormwater will be dealt with on-site and detailed calculations of the proposed attenuation were provided.

### *Residential Amenity*

The view from the appellants property is not a protected view.

- The finished ground level of the appellants property is 9.694 and the proposed finished floor level of the garage is considerably lower at 8.125 with a proposed ridge height of only 11.890 at its highest point of the mono-pitch roof.
- The windows of the garage are all ground floor window and none of these face the appellants apartments.
- The garage measures 1.48 from the stone boundary wall boundary (north-west corner) and 2.8 from the stone boundary wall at the southwest corner.

- Highlights that there is a large rear balcony along the with a side balcony of the appellant's property overlooking the applicants rear garden and private amenity space which interfere with their privacy and use of the property.

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

- Notes the photographs of flooding submitted from the appellant on their site.
- Highlights the applicant's response to further information received 14/08/2023 which proposes the provision of an onsite attenuation tank (tank with perforated base to allow for gradual filtration of storm water into the ground) because it is understood that Irish Water (Uisce Eireann) would not accept additional storm water into the network. The calculations for the tank size are on file.
- Notes that the applicant proposed the construction of French drains around the perimeter of the subject site in the vicinity of the garage to cater for surface water coming outside the subject site.
- These proposals considered acceptable to the planning authority and requests the decision to grant permission to be upheld.

### **6.4. Observations**

- None.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, the reports of the local authority and having inspected the site, and having regard to the relevant local, regional, national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Surface Water Management
- Impact on residential amenity and impact on view



### *Surface water management*

- 7.2. Surface water flooding is stated to occur within the appellants lands, the apartments at Liscannor Bay Hotel, and the subject site. I note the photographs submitted by the appellant to illustrate flooding on their rear garden.
- 7.3. The planning authority requested further information to enable them to assess the surface water flooding impact of the proposed development and proposals for surface water management. The applicant now proposes, as per revised details submitted 14<sup>th</sup> August 2023, a cut-off/French drain to the rear and side of the garage to capture any surface water and direct it to a new designed attenuation tank located in the driveway of the property underneath a permeable paving system. The footprint of the proposed garage has been reduced in size by 2.7 sq. metres to allow space for the drain to run between the boundary wall and the garage.
- 7.4. The appellant considers that the proposals for surface water management are not clear in the submitted application documentation. They consider there to be a conflict between what the applicant states with respect to all storm water to be dealt with on site and what is set out in the planner's report (dated 30/08/2023) which states that it is proposed to discharge the storm water to the combined sewer. The appellant is concerned that if disposal to the land is being proposed that proper site investigations showing the ground conditions are capable of taking the volume of water is necessary. They note from the submitted documentation on the application that the attenuation tank calculations appear to be based on general average holding calculations rather than any site-specific information.
- 7.5. The applicants in their response to the appeal clarify that rain/stormwater is proposed to be dealt with on-site with detailed calculations of the proposed attenuation provided.
- 7.6. The planning authority in their response to the appeal set out that the proposed attenuation tank will have a perforated base to allow gradual filtration of storm water into the ground because it was understood that Irish Water would not accept additional storm water into their network. I note for the record that there is no written

submission from Irish Water in respect to the proposed development. The planning authority also highlight that the proposed construction of French drains around the perimeter of the site in the vicinity of the garage to cater for surface water coming from outside the subject site was acceptable to the planning authority.

- 7.7. I acknowledge that there appears to be an issue with surface water flooding in the immediate vicinity of the site, however, I am of the opinion that the applicant has proposed additional measures to both manage the surface water coming from outside the subject site and the subject site's own surface water through attenuation with gradual filtration to the ground and the use of permeable paving on the driveway. I note also that the roof water from the existing house on the subject site is directed separately to an existing 10,000L tank located to the rear of the property and this water is currently being used for flushing toilets, gardening and washing etc. On balance, therefore, acknowledging that the planning authority accepted the attenuation calculations, I consider that the proposed measures will sufficiently mitigate and manage surface water impacts. In the event of a grant of permission I recommend this issue be addressed by condition.

*Impact on residential amenity and impact on view*

- 7.8. The third-party appellant has raised concerns with respect to the proposed development impacting on their residential amenity. They have concerns about the negative impact the development would have on views from her main sitting room and views of the sea. Concerns are also set out in respect to the structure will directly overlook their rear garden area (windows in the western garage wall). Requests that these be omitted or glazed with obscure glass.
- 7.9. I note that the proposed development, as shown on revised site layout plan drawing no. 2314 (FI) 01 received 14<sup>th</sup> August 2023, will be between approximately 10 metres away from the existing apartments to the northwest, between 1.22 and 1.69metres from the northern boundary and at its closest point less than half a metre from the western boundary, acknowledging a pinch point where the boundary is staggered. I note that the scale of 1:100 @A3 shown on the site layout plan does not correspond with the drawing. The finished floor level of the proposed garage is more than one metre lower than that of the apartments to the north-west and given that there are no windows to the northern elevation there will be no potential direct

overlooking of the existing apartments from the garage. The 2 no. windows proposed to the western elevation are in close proximity to the western boundary which comprises a low stone and planted boundary. I note that the proposed garage drawing as originally submitted (Drawing no. 5) indicates that the proposed windows are to be fitted with translucent glass to the western elevation. I consider that the proximity of the windows to this boundary is acceptable given the proposed use of the structure as a garage and the proposed use of translucent glass to protect privacy. This issue can be satisfactorily addressed by condition.

- 7.10. I am of the opinion that the points made with respect to obstruction of view are not valid planning matters and, as such, I do not consider that the Board is in a position to draw any conclusions in relation to the matters raised.

## **8.0 AA Screening**

- 8.1. I have considered the proposed development of a new garage with ancillary site works at Lower Quay Liscannor in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located c. 1.1km from the Inagh River Estuary Special Area of Conservation (SAC) (Site Code 00036) the Cliffs of Moher Special Protection Area (SPA) (Site Code 004005) is approximately 5.4 km from the subject site.
- 8.2. The proposed development comprises the construction of a garage to the side of an existing dwelling house, refer to section 2.0. No nature conservation concerns were raised in the planning appeal.
- 8.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Nature of works, including the small scale and nature of the development
- 8.4. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

I recommend that permission is granted for the reason and considerations set out below:

## **10.0 Reasons and Considerations**

Having regard to the location of the subject site within the settlement boundary of Liscannor on zoned 'existing residential' lands, the reduction in the footprint of the garage to accommodate proposed additional measures to both manage the surface water coming from outside the subject site and the subject site's own surface water through attenuation with gradual filtration to the ground and the use of permeable paving on the driveway the proposed development, subject to compliance with conditions, would not result in surface water flooding nor would have adverse impacts on the adjacent residential amenities. 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, as amended by the further plans and particulars received by the planning authority on the 14th day of August 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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All surface water within the site boundaries shall be collected and disposed of within the curtilage of the site in accordance with the revised details received by the Planning Authority on the 14<sup>th</sup> August 2023. No surface water from

roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of orderly development and to prevent flooding.

3. The 2 no. proposed windows on the western elevation shall be translucent glass.

Reason: In the interest of residential amenity.

4. The proposed garage shall not be used for human habitation, or any commercial purposes or for any other purpose other than for purposes incidental to the enjoyment of the dwelling.

Reason: To protect the residential amenity of the area.

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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Claire McVeigh  
Planning Inspector

06 August 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	318097-23		
<b>Proposed Development Summary</b>	The proposed development comprises the construction of a single storey garage (40 sq. metres). It is proposed to connection to the existing public mains for water supply and existing public sewer. The application form indicates that proposed surface water disposal is by public sewer/drain and soakpit.		
<b>Development Address</b>	Lower Quay, Liscannor, Co. Clare		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	√
		<b>No</b>	
<b>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?</b>			
<b>Yes</b>			
<b>No</b>	√		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>	√	N/A	No EIAR or Preliminary Examination required.
<b>Yes</b>			

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_