



An  
Bord  
Pleanála

## Inspector's Report ABP-318218-23

<b>Development</b>	(a) Retain alterations and extension to existing domestic garage, which involved raising the roof to provide a storage area  (b) Retain store with alterations to roof and permission to change use of ground floor of domestic garage to private studio and store		
<b>Location</b>	Reenard, Cahersiveen, Co Kerry		
<b>Planning Authority Ref.</b>	23/633		
<b>Applicant(s)</b>	Volker Kolsche		
<b>Type of Application</b>	Retention and permission.	<b>PA Decision</b>	To grant
<b>Type of Appeal</b>	Third party	<b>Appellant</b>	Sean Casey, Gearóid Mathews, Robert and Margaret, van der Burg
<b>Observer(s)</b>	None		
<b>Date of Site Inspection</b>	11 <sup>th</sup> March 2024	<b>Inspector</b>	Ann Bogan

## 1.0 Context

### 1. Site Location/ and Description.

The site which is 0.174ha in area is located off a local road, in Reenard, a rural area approximately 3km south-west of Cahersiveen, and 0.5km from the coast, opposite Valencia Island. The site consists of an existing single storey house served by a septic tank system, with a detached garage/store to rear. Recent construction of raised walls and roof to garage is evident but walls are not yet painted and interior not completed or fitted out.

Site is bounded by an undeveloped area of native scrubland to the north, a low bank to the east and a recently planted hedge along the side (southern) boundary with the neighbouring house. A small watercourse/drain runs along close to the northern boundary.

There are a significant number of detached 'dormer' dwellings and some single storey dwellings in ribbon pattern along roads in the vicinity.

### 2. Description of development.

The development consists of three elements:

- Retention of alterations to an existing garage involving raising the walls and roof to increase the ridge height from 4.1m to 5.3m to create an attic space for storage 35sq m in area, with metal sheeting roof and a circa 700mm diameter circular window to front (west) elevation. Floor plan submitted with application indicated stairs to first floor/attic level
- retention of store to rear of garage with alterations to roof, which include an awning on the south elevation
- separately, change of use of domestic garage to private studio and store is applied for

Revised drawings were submitted in response to further information request which show an enclosed toilet and wash hand basin area on the ground floor, while proposed stairs to first floor is no longer shown. Further information letter also

clarified that ground floor of garage would be used as studio/home office and storage purposes and upper floor/attic would be used only for storage purposes, as it 'cannot comply as a habitable area'.

### **3. Planning History**

**21/304** Voker Kolsche and Sabine Drager granted permission to retain garage to rear and revise front windows of dwelling. Condition attached that garage only be used for private domestic storage purposes and not for commercial, habitation or agricultural purposes.

### **4. National/Regional/Local Planning Policy (see attached)**

#### **Kerry County Development Plan 2022-2028**

- Landscape sensitivity policies KCDP 11.77 and 11.78
- Section 11.6.3.1 Visually Sensitive Areas
- Section 11.6.4 Development in Designated Areas

### **5. Natural Heritage Designations**

- Valencia Harbour/Portmagee Channel SAC Site Code 002262; 500m from site (Map included in Appendix 1).

## **2.0 Development, Decision and Grounds of Appeal**

### **6. PA Decision.**

Planning officer noted on inspection that internal layout of structure included and has been plumbed for wc/shower facilities, not shown on drawings submitted. Further information was requested with a full description of proposed use of structure and revised drawings if necessary. Planning officer considered the information submitted adequately dealt with matters raised in FI request, and concluded the proposal to retain the changes to the garage and to change the use of the ground floor would not have a negative impact on amenities, and recommended grant of retention permission and permission.

Decision to grant retention permission and permission was subject to six conditions including restricting the use of the structure to storage/studio/home

office purposes only and not for any commercial, residential or agricultural purposes

**6A** The planning authority received three submissions on the application from the three appellants. The issues raised were similar to those raised in the grounds of appeal, as summarised below.

### **7. Third Party Appeals**

There are three third party appeals from residents in the vicinity. Grounds are as follows:

#### **Sean and Diane Casey:**

- Proposed domestic garage extension by reason of height, scale and proximity to adjacent houses would seriously injure amenities and depreciate value of properties in vicinity by reason of overshadowing, overlooking and over development
- Large extension has been added to garage and height has been raised to higher than existing house and is now incongruous in its surroundings
- Further information does not state where staircase is to be located or where plumbing for toilet/shower to be located. Planning letter suggests it will run into water course.
- No requirement included for any screening of the development from adjacent property or the road
- Garage now resembles a detached house. Concern that further internal development such as addition of kitchen and bathroom will transform it to living accommodation
- Condition to be attached that building not be further altered or used for residential use
- Why is toilet and shower unit needed if it is to be used as a studio or office?
- Will requirement that light not be visible from more than 100m be applied to garage? Existing house has 10 lights on most nights visible from 2 roads.
- This is a dark sky reserve so light pollution needs to be controlled.

**Robert and Margaret van der Berg**

- Proposed studio/office and storage structure is excessive and overdeveloped for its needs
- The size and height seriously injure amenities of the area and interferes with character of landscape and natural beauty
- Height is higher than existing house and roof fabric is not in keeping with the area, which is a 'visually sensitive area'
- Applicant should be made reduce height of structure to ensure it is not changed internally and used for guest accommodation which has always been their intention
- Concern re proposal to use of existing old septic tank to serve garage structure as well as existing house, which could change to up to 4 bedrooms if location of studio and office relocated to garage structure as proposed
- Overflow from septic tank could impact on surrounding properties and cause pollution to nearby streams and impact wildlife and habitats in area. Ref to Reenard South Special Area of Conservation
- Planning permission conditions includes control of external lighting. Existing house does not comply with conditions controlling external lighting. This is a Dark Sky reserve area.
- Garage conversion in current form would set precedent for development of other properties with outhouses and garages in the area.

**Gearóid Mathews**

- Permission was granted in 2021 for revision of windows in existing house and retention of the garage. However, garage was subsequently redeveloped with new patio doors to front, addition of second floor, stairs and new roof, extra windows and storage room with veranda was added to rear, structure plumbed for water and sewage
- Enforcement action by Kerry Co Council resulted in application for retention

- Quality and size of fenestration far exceed that required for uses proposed in application
- Square footage fails to include second storey
- Existing store of 11.9sqm to rear of garage is new build and was not pre-existing
- FI submission letter did not address issues raised by objectors. Revised drawings did not show access to upper floor or how waste water was to be evacuated or where shower was to be situated. No provision made for heating of garage for studio/office
- No details given re finish to structure to minimise visual impact of renovation on surrounding area
- No screening proposed to protect neighbours from overlooking
- No guarantee that attic won't be used for habitation, other than remark by agent
- Development does not comply with Kerry County Development Plan policies quoted in planner's report
- Development not in scale with surroundings and impacts negatively on value of properties
- Development is unduly obtrusive and no measures taken to screen it from view
- No consideration to alternative location or design to reduce impact on landscape and neighbours i.e. additional storage could have been created by extension of existing bungalow, opaque windows and windows placed on opposite side so as not to overlook neighbours
- EIA screening was a desk exercise – does not take into account all existing developments in assessing 'in combination effects' - while this development does not warrant EIA there is an irregular development in the area being undertaken without permission

- Septic tank has been in place 20 years and may not meet current standards. House now has 2 bathrooms, so including garage, 3 bathrooms would discharge into septic tank whose suitability has not been verified
- Schedule 2A Planning condition, states garage and store 'shall be used for domestic storage purposes only and not for any commercial, residential or agricultural uses'. This precludes use of ground floor for a studio/office which are commercial activities
- Schedule 2B Second paragraph Condition states no water to be allowed flow onto the public road but to be disposed to existing watercourse or soakpit on site. In absence of drawing or explanation as to disposal of sewage from garage, this suggests its ok to dispose of effluent to local stream, with possible negative impacts on protected estuary and oyster beds
- Fourth paragraph contradicts final paragraph of Schedule 2A, and limits use of entire garage for private domestic storage purposes only.
- Garage should be restored to original height and store demolished or door and windows closed up to prevent overlooking
- If An Bord Pleanála decide to permit retention, conditions should be imposed: t
  - To ensure materials and finishes match those of existing building,
  - To ensure capacity of septic tank is sufficient to meet current standards and increased load;
  - To require windows of side of building to be opaque to ensure no overlooking of neighbours

#### **8. PA Response**

- None

#### **9. Applicants response – Agent on behalf of applicant made following response:**

- Use of building: Applicant initially believed he could convert garage to dwelling unit. After enforcement by Kerry County Council, agent got involved and informed him not possible to get second dwelling with one septic tank.

- Agent advised applicant to apply for permission to retain and complete the works for use of building as studio, as applicant's wife knits and sells works. Applicant works from home so can use studio as a workspace
- Septic tank has capacity of approximately 3.6 cubic metres, sufficient for 3-4 bed house or population equivalent (PE) of 5-6. House has been reduced to two bed requiring PE of 4. House and studio only used by applicant and wife therefore septic tank is adequate.
- Visual impact: studio building is 7.5m by 5.5m with ridge height of 5.3. Because of its location and size, it would not be visually obtrusive. Only western side can be seen. Applicant has planted hedge on western boundary, and neighbour has also planted hedge on his side of the boundary, so garage will be completely screened from road in time.
- Overlooking: there is only 1 window at attic level facing rear of applicant's house and road. Other windows are a ground floor level and therefore are not overlooking adjoining properties
- Kerry County Council were correct in granting retention permission for such a small development, which is ancillary to the main house.

### 3.0 Environmental Screening

#### 10. EIA Screening

Having regard to the limited nature and scale of development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### 10. AA Screening

Having regard to the modest nature and scale of development, and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.



## 4.0 Assessment

4.1. There are two main aspects to the application: retention of changes to the garage and associated store to the rear, and separately, a proposal to change the use of the ground floor of the structure to a private studio and store. Having examined the application and appeal details and all other documentation on file, after an inspection of the site and having regard to relevant local and national policies and guidance, I consider the main issues of the appeal are as follows:

- Landscape/visual impact
- Residential amenity
- Use of the structure
- Wastewater drainage issues

### 4.2. Landscape/visual impact

- 4.2.1. The site is in an area close to the coast designated as a 'visually sensitive area' in the Kerry County Development Plan 2022-2028. These are areas of outstanding landscapes which are sensitive to alteration. Objectives KCDP 11-77 and 11.78 seek to protect landscapes and ensure new developments do not have a detrimental impact on the character, integrity distinctiveness or scenic value of the area.
- 4.2.2. The garage structure is located close to the rear (north east) corner of the site, set back approximately 11.5m from the rear of the existing dwelling and 50m from the nearby road to the west and 55m from the road to the south. The alterations to be retained include raising the existing garage walls and roof to give a ridge height of 5.3m, which is 1.2 m higher than the previous ridge height and also higher than the ridge of the existing house on site. While the garage is somewhat higher than the existing house, I note that the houses across the road and the neighbouring house to the south have ridge heights of approximately 7m. Hedges have been planted along the southern boundary of the site which will provide screening in time, while the existing vegetation along the northern boundary screens the structure from the north.
- 4.2.3. Taking account of the amount and character of existing development in the area and the location of the garage to the rear of the house and set back from the public roads, I consider that the alterations to be retained will not result in a significant

detrimental impact on the landscape character or visual amenity of the area. There is a limited local visual impact when viewed from the public road to the east and a condition to provide additional screen planting to the east of the structure is recommended to mitigate this.

#### **4.3. Residential amenity**

- 4.3.1. Appellants are concerned that the development would impact on their amenities due to overlooking and over shadowing of their properties due to its height, scale and proximity to other dwellings, that finishes are not in keeping with the area and no attempt is made to screen it from neighbouring properties. The garage structure is approximately 30m from the nearest point of the neighbouring house to the south and 20m from the side garden boundary of that house. Houses to the west on the opposite side of the local road are 70-80m from the garage structure.
- 4.3.2. There is only one window at upper floor level in the altered structure, facing west towards the public road, a considerable distance from nearest houses. The other new and existing windows (mainly in south elevation, apart from narrow high level windows in the north elevation of garage) are at ground floor level and therefore not overlooking the windows of the neighbouring house. I am satisfied therefore that there is no overlooking from the structure which would impact negatively on the amenities of the adjacent houses. In addition, the distance between the properties and the garage/store structure would also preclude overshadowing of nearby dwellings and gardens.
- 4.3.3. At present the rear gardens of the subject house and adjoining house to south are quite open without significant tree or shrub planting to provide screening and increase privacy. Both adjoining neighbours have planted hedges along their shared boundary which will in time, provide screening and improve privacy between the gardens, including reducing visibility of the enlarged garage/store. Walls along the joint garden boundaries would not be appropriate due to the visual impact they would have on the rural landscape. The additional planting recommended in 2.2.2 above would increase privacy for both parties, as well as reducing landscape impact of the structure. The changes to the garage/store structure and its proposed use if controlled by condition and limited to use by the house occupants, are in my opinion unlikely to be out of keeping with normal activity in the rear garden of a dwelling.

4.3.4. The metal roof of the enlarged garage structure replaces a pre-existing metal roof and is considered acceptable. Condition to control external lighting of the structure is recommended. Subject to conditions, I am satisfied that the proposed retention of changes to the garage and store would not seriously injure amenities of the area or of property in the vicinity.

#### **4.4. Use of the structure**

- 4.4.1. The application requests permission for change of use of the ground floor of the garage to 'a private studio and store'. In a further information response requesting details of the use and in the response to the appeal, the agent confirmed that the applicant had originally intended to use the expanded garage as a second living unit, he realised following enforcement action that it would not be possible. Instead, the ground floor would be used as a studio by the wife of the owner who knits as a hobby and sells her goods at local craft fairs and markets. for her knitting hobby which she sells her goods at local craft fairs and markets and also used as a home office by the applicant.
- 4.4.2. I consider that the use of the ground floor of the garage as a private studio for crafts and home office use and store, ancillary to the occupation of the dwelling, would not impact on the amenities of the area and is acceptable subject to a condition strictly restricting its use for such purposes to the occupants of the dwelling, and not to be used, let out or sold separately from the rest of the property, and not to be used for commercial, residential/habitation or agricultural purposes.
- 4.4.3. As the agent confirms, the attic would not meet building regulation standards for habitation use. I note the stairs and the floorplan showing a store in the attic are absent from the revised drawings. The revised section drawing refers to it as an attic, rather than a store. For clarity, the provision of a fixed stairs to the attic is therefore considered excluded. If the area is to be put to use in the future it should be limited to incidental storage, ancillary to use of the dwelling and not for habitation or other purposes.
- 4.4.4. The revised ground floor plan shows a 2.1m by 2m enclosed area which the Planner's report noted were plumbed for WC and shower. The revised plans and cover letter indicate a WC and wash hand basin which would be acceptable to serve

the use of the ground floor as studio/home office. No shower is indicated and would not be considered justified for the proposed use in any case.

#### **4.5. Wastewater drainage issues**

- 4.5.1. There is an existing septic tank in the rear garden which serves the dwelling. The planning application documentation indicates that this would also serve the extended garage structure, although the connection is not shown on the layout drawing submitted. Appellants are concerned that the septic tank may not be sufficient to cater for an increased load. There are small watercourses in the vicinity and they fear that failure of the septic tank system could lead to pollution of the waterways, which ultimately feed into the sea and SAC 500m away. However, as the proposed studio and store use is confined to the occupants of the house and ancillary to the use of the dwelling, there should not be an increase in load. Therefore, based on the information available with the application and appeal, I consider the proposal to use the existing septic tank system to dispose of effluent from the extended garage structure to be acceptable, subject to details being agreed with the planning authority.

#### **5.0 Recommendation**

- 5.1. I recommend that retention permission and permission be granted.

#### **6.0 Reasons & Considerations**

- 6.1. Having regard to the Kerry County Development Plan 2022-2028 and the nature, extent and location of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development to be retained and proposed development would not be visually intrusive and would not seriously injure the amenities of the area or of property in the vicinity. The development to be retained and proposed development would, therefore, be in accordance with the proper planning and development of the area.

- (A) Retention permission to (1) retain alterations and extensions to existing domestic garage, which included raising the roof and provision of additional windows and (2) retain store with alterations to roof.

1.	<p>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 submitted on the 30th day of August 2024, 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 and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The domestic garage and store to be retained shall be solely for use incidental to the dwelling house and not for any commercial, or agricultural purposes or for human habitation.</p> <p><b>Reason:</b> In the interest of residential amenity</p>
3.	<p>A landscaping plan shall be submitted to and agreed in writing with the planning authority within three months of the grant of planning permission, and shall include details of additional planting of native tree and shrub species in the vicinity of the garage and store to provide screening of the structure from the west. Planting shall take place in the first planting season following the date of grant of planning permission.</p> <p><b>Reason:</b> In the interest of visual amenity</p>
4.	<p>Any external lighting shall be cowled and directed away from the public roadway and nearby dwellings and shall also not be visible from any point more than 100metres away from the light</p> <p><b>Reason:</b> In the interest of traffic safety, amenity and to control light pollution in the rural environment.</p>
5.	<p>Details of the arrangements for disposal of wastewater from the garage shall be submitted to and agreed in writing with the planning authority</p>

	before construction of same commences and shall be implemented to the satisfaction of the planning authority.  <b>Reason:</b> In the interest of public health
6.	Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.  Reason: In the interest of public health.

(B) Permission to change the use of ground floor of domestic garage to private studio and store:

7.	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 submitted on the 30th day of August 2024, except as may otherwise be required in order to comply with the following conditions.  <b>Reason:</b> In the interest of clarity.
8.	The ground floor of the garage shall be used for private craft studio/home office and storage purposes incidental to the use of the dwelling only, and shall not be let out or sold separately from the overall property, and shall not be used for any commercial or agricultural purposes or for human habitation.  <b>Reason:</b> In the interest of residential amenity

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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Ann Bogan

Planning Inspector

29<sup>th</sup> March 2024

## Appendix 1

### Valencia Harbour/Portmagee Channel SAC



## Appendix 2

### Relevant policies and guidelines

#### Kerry County Development Plan 2022-2028

**KCDP 11-77** Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.

**KCDP 11-78** Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.

#### 11.6.3 Landscape Designations

In the preparation of landscape designations for the County, the Planning Authority has had regard to the Landscape Review of County Kerry which outlines the quality

of a landscape itself, but also the level of existing development and the ability of the landscape to absorb further development without altering it to an unacceptable degree. Designations are not wholly dependent on a hierarchy of the quality of landscapes. Designations also reflect the importance of a landscape to the overall amenity of a locality and its importance to communities within these areas.

There are two landscape designations for the county.

1 Visually Sensitive Areas

2 Rural General

#### 11.6.3.1 Visually Sensitive Areas

Visually sensitive landscape areas comprise the outstanding landscapes throughout the County which are sensitive to alteration. Rugged mountain ranges, spectacular coastal vistas and unspoilt wilderness areas are some of the features within this designation.

These areas are particularly sensitive to development. In these areas, development will only be considered subject to satisfactory integration into the landscape and compliance with the proper planning and sustainable development of the area.

The County enjoys both a national and international reputation for its scenic beauty. It is imperative in order to maintain the natural beauty and character of the County, that these areas be protected.

#### 11.6.4 Development in Designated Areas

As outlined above and in accordance with Objective KCDP 11-76 and Objective KCDP 11-77 the protection of the landscape is a major factor in developing policies for rural areas. It should be noted that the landscapes and scenery are not just of amenity value but constitute an enormous economic asset. The protection of this asset is therefore of primary importance in developing the potential of the County. The capacity of an area to visually absorb development is also influenced by a combination of the following factors:

1. Topography - development in elevated areas will usually be visible over a wide area; development in enclosed areas will not.
2. Vegetation - areas which support (or which have the potential to support) trees, tall hedges and woody vegetation can screen new development from view. Areas



which cannot easily sustain such vegetation will be unlikely to screen new development.

3. Development - new development is likely to be more conspicuous in the context of existing development in the landscape.

Visually sensitive landscapes are particularly notable by virtue of their scenic and visual quality and offer significant opportunities for tourism development and rural recreational activities. The Council will seek to ensure that a balance is achieved between the protection of sensitive landscapes and the appropriate socioeconomic development of these areas. Development is not precluded in visually sensitive landscapes however development proposals will be required to demonstrate that they integrate and respect the visual quality of the landscape.