



An
Bord
Pleanála

Inspector's Report ABP-319484-24

Development	Retention of garage converted to accommodation.		
Location	Barrow, Ardfert, Co. Kerry		
Planning Authority Ref.	2460036 Kerry County Council		
Applicant(s)	Declan McCarthy		
Type of Application	Retention permission and permission	PA Decision	Refuse retention permission and refuse permission
Type of Appeal	First	Appellant(s)	Declan McCarthy
Observer(s)	None		
Date of Site Inspection	19 August 2024	Inspector	Claire McVeigh

1.0 Site Location/ and Description.

The subject site, 0.236 ha, is located in a rural area, townland of Barrow, approximately 4km southwest of the district town of Ardfert and 4.5km northeast of the district town Fenit, County Kerry.

The subject site is located to the east side of the local road and the opposite side of the road is designated as a visually sensitive area. The landscape is quite flat and exposed surrounding the site and the immediate area is characterised by ribbon development of one-off housing.

2.0 Proposed development.

The proposed development to be retained comprises a single storey detached structure of 37.39 sq.m floor area with a living room/kitchen and 1 no. bedroom with ensuite. There is a single pitched roof with a ridge height is shown as 5 metres.

The proposed structure is approximately 4 metres from the shared boundary with the property to the north.

Water supply is via the existing public mains and wastewater management/treatment is via the existing conventional septic tank system. Surface water disposal via a soak pit.

3.0 Planning Authority's Decision

On 19 March 2024 the planning authority refused retention permission for the following reason:

1. The proposed development would constitute the provision of a separate detached dwelling unit within the curtilage of an existing dwelling house located in a rural area. The proposed development would contravene Objective KCDDP 5-21 of the Kerry County Development Plan 2022-2028 in relation to residential development in the rural landscape. In addition, the proposal would contravene section 1.5.6.4 of the Kerry County Development Plan 2022-2028 in relation to Dependent Relative Accommodation which requires the design of such accommodation to form an integral part of the main dwelling unit. The proposed

development would constitute substandard residential development, would set an unwanted precedent for similar development in the rural area and would, therefore, be contrary to the proper planning and sustainable development of the area.

- Planner's report considers that the proposal would constitute a second detached dwelling house within the curtilage of a permitted one-off rural dwelling and is not acceptable in principle. It is noted that the existing residential unit is detached from the dwelling house and the siting and design of the unit does not form an integral part of the main dwelling unit capable of reintegration for single family use, as such does not comply with section 1.5.6.4 of the development plan. Limited screening of the development along the site boundaries is noted. Considers that the proposed living accommodation to be retained would impact negatively on neighbouring residential amenities having regard to the location of the structure. The planner highlights that no details were submitted regarding the extra loading onto the existing conventional septic tank system.

No submissions from prescribed bodies received. No observations or submissions were made in respect to this application for retention.

- Environmental Assessment Unit Report – Kerry County Council, see also section 7.0 and 8.0 of my report.

Concludes that the development concerned would not have required an AA given there is no realistic or meaningful pathway for impact on any European Site and there is no realistic possibility that the proposal would have significantly affected European (Natura 2000) Sites.

Concludes that the development concerned would not have required either an EIA or a determination as to whether an environmental impact assessment would have been required.

4.0 Planning History.

Planning register reference 012057: Planning permission granted (October 2001) for the erection of a lobby to front of bungalow, retain change of use of garage as well as shed complete with associated elevations changes. Applicant Bridget & John Paul O'Connor.

5.0 Kerry County Development Plan 2022-2028

- KCDP 5-21 Ensure that all developments are in compliance with normal planning criteria and environmental protection considerations.

Housing options for Older People

It is an objective of the Council to:

- KCDP 7-21 Ensure that dependent relative accommodation is integral to the existing dwelling house, capable of being reintegrated to the main house, and subordinate to the main dwelling house.

Volume Six (1. Development Management Standards & Guidelines)

- 1.5.6.4 Dependent Relative Accommodation (Urban and rural)

The creation of an ancillary, subsidiary, dwelling unit to be occupied for habitable purposes, is generally acceptable, provided such proposals can demonstrate a bona fide need for such a unit and that:

- It is not a separate detached unit, and it is possible to provide direct access to the remainder of the house.
- There shall be no permanent subdivision of the garden.
- The unit shall not be let or sold, other than as part of the overall property, and shall revert to being part of the original house when no longer occupied.
- That the proposal does not impact adversely on either the residential amenities of the existing property or the residential amenities of the area.
- The design should ensure that the unit forms an integral part of the main dwelling unit capable of reintegration for single family use.

Chapter 13 Water & Waste Management

There are in the region of 38,000 domestic onsite wastewater treatment systems in County Kerry of varying age and condition. It is a legal requirement that all septic tanks and wastewater treatment units are registered with the Local Authority. It is the policy of the Council to require that all individual effluent treatment systems and septic tank drainage systems be provided in accordance with the standards set out in the EPA Code of Practice (2010).

KCDP 13-10 Ensure that all wastewater treatment systems for single houses are designed, constructed, installed and maintained in accordance with the manufacturers guidelines and the E.P.A. Publication 'Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses" or any amending/replacement guidance or standards.

5.1 Proposed Variation No. 1 of the Kerry County Development Plan 2022-2028

Proposed Variation No. 1 – Tralee Municipal District Settlements' Plan including an overall County Level Settlements Plan Introduction, which will replace the Tralee Town Development Plan as contained in Volume 2 (Town Development Plans) of the Kerry County Development Plan 2022-2028 and the Tralee Municipal District Local Area Plan 2018-2024. The Municipal District includes the following settlements:

Key Town	Tralee
District Towns	Ardfert, Fenit
Villages	Blennerville, The Spa

Submissions may be made during the period from Thursday 20th February until Friday 21st March 2025.

I highlight to the Board that the proposed variation has no zoning implications for the subject site.

5.2 Natural Heritage Designations

The subject site is approximately 100 m north of the Special Protection Areas: Tralee Bay Complex SPA [Site Code 004188].

Special Area of Conservation: Akeragh, Bana and Barrow Harbour SAC [Site Code 000332] and proposed Natural Heritage Areas: Akeragh, Banna and Barrow Harbour [Site Code 000332] are approximately 200m to the south of the subject site.

6.0 The Appeal

6.1 First Party Appeal.

Grounds:

- The accommodation serves as a granny flat for the applicant's mother, it is not intended for commercial use.
- The granny flat allows for greater independence while still ensuring that the applicant's mother has the necessary support systems in place.
- The design of the granny flat is not intended to disrupt the aesthetics or functionality of the surrounding area.

6.2 Planning Authority Response

None received.

7.0 Environmental Impact Assessment (EIA) Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of

significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

8.0 AA Screening

I have considered the proposed retention of converted garage to living accommodation and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located 100 m north of the Special Protection Areas: Tralee Bay Complex SPA [Site Code 004188]. The Special Area of Conservation: Akeragh, Banna and Barrow Harbour SAC [Site Code 000332] is approximately 200m to the south of the subject site.

The proposed development comprises retention of a garage converted to accommodation.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- Nature of retention works
- Location-distance from nearest European site and lack of connections
- Taking into account screening determination by the planning authority [see Kerry County Council Environmental Assessment Unit's report]

I consider that the proposed development to be retained would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Assessment

Having examined the application details and all other documentation on file, including all of 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:

- *Principle of development*
- *Wastewater Management*

9.1 Principle of development

From the planning history for the site, section 4.0, and from my site visit I highlight to the Board that it appears that the original garage, to the side of the house, was converted to residential use. The proposed development to be retained comprises a single storey garage structure that was converted into use as a 1 no. bedroom residential unit for use by the applicant's mother. I am of the opinion that the appeal submission satisfactorily demonstrates that there is a *bona fides* need for such a unit.

The development to be retained is located in a rural unzoned area, it shall therefore be assessed under the broader development plan policy to determine whether it is acceptable in principle. It is an objective of the current development plan to ensure that dependent relative accommodation is integral to the existing dwelling house, capable of being reintegrated to the main house and subordinate to the main dwelling house (Objective KCDP 7-21). Applying these three criteria I am of the opinion that the subject application fails in respect to be second criteria that requires the accommodation to be capable of being reintegrated to the main dwelling house given its separation distance of approximately 16 metres.

Having regard to the development management standards and guidelines in Volume 6 of the development plan I note that section 1.5.6.4 relates to dependent relative accommodation (urban and rural), see section 5.0 of my report. The proposed development to be retained as a separate detached unit is contrary to the first of the development management criteria for such a unit, and does not by reason of its position and separation from the existing dwelling unit lend itself to future reintegration. The proposed development to be retained is, therefore, contrary to Objective KCDP 7-21 and development management standards and guidelines section 1.5.6.4 of the Kerry County Development Plan 2022-2028.

I note the planner's concerns in their report that the proposed development to be retained would impact negatively on neighbouring residential amenities having regard to the location of the structure. Taking into consideration the large garden of the adjoining property and the set back of over 4 metres from the shared boundary with the property to the north and 24 m from the shared boundary with the property to the south, I do not agree that the proposed development would impact negatively on the neighbouring residential amenities. I note that no observations or submissions were received in respect to the application for retention. I am of the view that landscaping proposals to provide screening would further help integrate and screen the structure in this open landscape, if the Board were minded to grant retention permission this issue could be addressed by condition.

I understand that proposals are being developed by the Department of Housing in respect to planning exemptions including exempting free-standing modular or cabin style homes from planning permission. It may be that this development currently on appeal could meet with such future exemptions. Notwithstanding, at the time of writing my report such exemptions are not applicable and in the absence of policy support in the current development plan the proposed development to be retained given it is a detached dwelling unit would be contrary to the proper planning and sustainable development of the area.

9.2 Wastewater management

The application for retention contains no information in respect to the existing septic tanks loading and its capacity which the detached dwelling unit is connecting into. In the absence of information, I am unable to carry out an assessment of the suitability of the existing septic tank and percolation area for use by the additional 1 no. bedroom unit.

On the basis of the submissions made in connection with the planning application and the appeal, I am not satisfied that effluent from the development can be satisfactorily treated and disposed of on-site notwithstanding the proposed use of the existing septic tank and percolation area. The proposed development to be retained would, therefore, be prejudicial to public health.

10.0 Recommendation

I recommend that retention permission for the development be refused for the following reasons and considerations.

11.0 Reasons & Considerations

1. The proposed development to be retained, a separate detached 1 no. bedroom unit, is contrary to the development management criteria for such a unit and does not, by reason of its position and separation from the existing dwelling unit, lend itself to future reintegration. The proposed development to be retained is, therefore, contrary to Objective KCDP 7-21 and development management standards and guidelines section 1.5.6.4 of the Kerry County Development Plan 2022-2028.
2. The Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and disposed of on-site notwithstanding the proposed use of the existing septic tank and percolation area. The proposed development to be retained would, therefore, be prejudicial to public health.

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.

Claire McVeigh

Senior Planning Inspector

26 February 2025

Appendix 1: Form 1

EIA Pre-Screening

An Bord Pleanála	319484-24		
Case Reference			
Proposed Development Summary	Retention of garage converted to accommodation.		
Development Address	Barrow, Ardfert, Co. Kerry		
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	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	√	Class/Threshold: Part 2 Class 10 (b) Construction of more than 500 dwelling units.	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	Class/Threshold: Part 2 Class 10 (b) Construction of more than 500 dwelling units. The proposal is for the retention of a 1 no. bedroom detached unit.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	√	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		

Inspector: _____ Date: _____

Appendix 2: Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-319484-24
Proposed Development Summary	Retention of garage converted to accommodation.
Development Address	Barrow, Ardfert, Co. Kerry
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development is for retention of a 1 no. bedroom unit in a converted garage.</p> <p>The project due to its size and nature would not give rise to significant production of waste during both the construction and operation phases or give rise to significant risk of pollution and nuisance.</p> <p>The project characteristics pose no significant risks to human health. The proposed development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in par-</p>	<p>The subject site is located in close proximity to ecologically sensitive sites, namely the Special Protection Areas: Tralee Bay</p>

ticular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).		<p>Complex SPA [Site Code 004188] and Special Area of Conservation: Akeragh, Banna and Barrow Harbour SAC [Site Code 000332].</p> <p>Noting the threshold that would trigger an AA is different to that of EIA I am of the opinion that the proposed development is not likely to have potential to significantly effect on other significant environmental sensitives in the area.</p> <p>It is considered that, having regard to the limited nature and scale of the development, there is no real likelihood of significant effect on other significant environmental sensitivities in the area.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>		<p>The size of the proposed development is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Projects of the Planning and Development Regulations 2001 as amended.</p> <p>There is no real likelihood of significant cumulative considerations having regard to other existing and/or permitted projects in the adjoining area.</p>
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No

There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)