



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319822-24

<b>Development</b>	Retention of as-constructed attic side window and revised site boundary to enclose an additional garden to the rear of the dwelling.
<b>Location</b>	Dunelm House, Caher Road, Islandduane, Mungret, Co. Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	2360305
<b>Applicant(s)</b>	Pat O'Connor and Nicola Cummins
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Yvonne and Paul O'Donoghue
<b>Observer(s)</b>	No Observers.
<b>Date of Site Inspection</b>	23 <sup>rd</sup> September 2024
<b>Inspector</b>	Oluwatosin Kehinde



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## **1.0 Site Location and Description**

- 1.1. The site is located on the south side of Caher Road, approximately 800m south of Mungret Regional F.C.
- 1.2. The site is characterised by a two-storey dwelling house. The appellant's property (a two storey house) adjoins the appeal site to the east and there is a single storey detached house on the opposite side of the road.
- 1.3. Caher Road is characterised by rural landscape at the south western edge of Limerick city, and has no public lighting, no footpaths and no road markings along this stretch. High voltage wires erected on pylons cross the Caher Road a short distance to the south west of the appeal site. There is a speed limit of 50km/h along this stretch of the Caher Road (L1402).

## **2.0 Proposed Development**

- 2.1. The development is a retention permission for as-constructed attic side window and revised site boundary to enclose an additional garden to the rear of the existing dwelling.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority (PA) issued a grant of permission for the development as constructed subject to three conditions. Planning Authority Reports

#### **3.1.1. Planning Reports**

- The decision to grant permission by the PA was informed by two reports from the Planning Officer (PO). The first report dated 28<sup>th</sup> of June 2023 by the PO highlighted issues of non-compliance with conditions on a previous development associated with the appeal site and a request for additional information was sought.

- The second report dated 1<sup>st</sup> of May 2024 assessed the response by the applicant and was satisfied that the issues had been addressed. The PO recommended that planning permission be granted.

#### 3.1.2. Other Technical Reports

- Roads Section – the report dated 1<sup>st</sup> of May 2024 recommended that the Road Section were unable to sign off the application as further information had not been submitted
- Environmental Section – Initial report dated 28<sup>th</sup> of June 2023 requested for information on the location of the on-site wastewater treatment system and percolation area.

#### 3.2. Prescribed Bodies

None received on file

#### 3.3. Third Party Observations

One third party observation was received by the PA and it is summarised as follows

- The unauthorised nature of the window
- Encroachment of land within a Section 47 agreement

### 4.0 Planning History

- PA Reg. Ref. 23/60304: Permission granted for Relocation and alteration of domestic garage.
- PA Reg. Ref. 23/7013: Permission granted for Extension of period for permission granted under 17/1085 to construct a dwelling house.
- PA Reg. Ref. 17/1085: Permission granted for the construction of a two-storey dwelling house, wastewater treatment system, percolation area, entrance and all associated works.
- PA Reg. Ref DC-465-22: Enforcement warning letter for the non-compliance of conditions

## **5.0 Policy Context**

### **5.1. Development Plan**

The Limerick Development Plan 2022-2028 is the statutory plan for the area. Section 11.4.4.13 of the development plan relates to alterations at roof/attic level and states:

Roof alterations/expansions to main roof profiles (changing the hip-end roof of a semi-detached house to a gable/'A' frame end or 'half-hip' for example) and additional dormer windows will be assessed having regard to the following:

- The character and size of the structure, its position on the streetscape and proximity to adjacent structures;
- Established streetscape character and roof profiles;
- Dormer extensions to roofs, i.e. to the front, side and rear, will be considered with regard to impacts on existing character and form and the privacy of adjacent properties.

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

Lower River Shannon SAC is approximately 2.6km to the north

River Shannon and River Fergus Estuaries SPA is approximately 2.6km to the north

### **5.3. EIA Screening**

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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.

## **6.0 The Appeal**

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

- It is submitted that the applicant made false claim about the rationale for having the second floor gable window in their application.
- The applicant misrepresented the proximity of the nearest dwelling and that the window has a direct impact on the properties within the vicinity.
- The Domestic Waste Water Treatment System (DWWTS) is not constructed within the specification of the PA
- Upon a request of further information by the PA, the applicant failed to submit accurate revised drawings on sightlines. It is submitted that there are issues with sightlines.

### **6.2. Applicant Response**

- It is submitted that the appellant's claim about the window is based on an incorrect assumption and that the appellants does not have any evidence to support their statement.
- It is stated that the use of the attic space is consistent with the PA permission under 17/1085.
- It claims that the image submitted by the appellants does not provide an accurate representation of the size, scale and surrounding impact of the window.
- It is submitted that the DWWTS has been built within the minimum distances set out by the PA and verified by the PA.
- The PA did not have any issue with sightlines and the applicant referenced the Planning Officer's (PO) report under ref 23/60305 stating that the onus was on the applicant to ensure sightlines remain unimpeded by hedgerows or foliage.

## 7.0 Assessment

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

- Principle of Development
- Visual impact
- Domestic Waste Water Treatment System (DWWTS)
- Sightlines

### 7.2. Principle of Development

The subject site occupies a two-storey dwelling house located within a rural setting approved under PA Plan Reg 17/1085. As the development is associated with the dwelling, the principle of an additional window is acceptable.

### 7.3. Visual Impact

- 7.3.1. The associated use of the attic window has been raised in the grounds for appeal. The use of the attic has been subject to a previous permission by the PA and as such it is not a matter for the Board to consider. Any inconsistencies regarding the use of the attic should be addressed by the PA Enforcement Section.
- 7.3.2. The attic window is located on the western side of the two-storey house and 5m from the boundary. The window is 900mm in width and 1175mm in height. It is of similar design and finish to other windows on this elevation of the house.
- 7.3.3. The window is westward facing and the nearest residential dwelling is under construction, located more than 50 meters away from the window. Therefore, I do not consider that this attic window will cause any direct impact on any properties by way of overlooking.
- 7.3.4. I consider that the window by reason of its scale, nature and design, and its location with respect to adjoining properties, would not detract from the character of the dwelling and would not seriously injure the amenities of the area or property in the vicinity.



#### 7.4. Domestic Waste Water Treatment System (DWWTS)

- 7.4.1. While the waste water treatment system of the house did not form part of the PA application, clarity on the exact location of the treatment plant was sought by the PA by way of further information. The applicant supplied information about the location of the system, consistent with the grant of permission under 17/1085. The PA, in a letter to the applicant dated 12<sup>th</sup> of January 2023 stated compliance with the location and construction of the waste water treatment system on the site. I therefore consider that this is a matter for the PA and not for the Board to consider.

#### 7.5. Sightlines

- 7.5.1. The sightlines did not form part of the PA application and were consented as part of a previous permission under 17/1085. This is therefore not a matter for the Board to consider.

### 8.0 AA Screening

- 8.1. Having regard to the nature and scale of the development, the receiving environment, the separation distances, and the absence of any pathway to European sites, it can be concluded that the development, alone or in-combination with other plans or projects, would not give rise to any significant effects on any European site. As such, there is no requirement for a Natura Impact Statement in this case.

### 9.0 Recommendation

I recommend that retention permission be granted, subject to condition, for the reasons and considerations as set out below.

### 10.0 Reasons and Considerations

- 10.1. Having regards to the nature of the development and to the planning history relating to the site, it is considered that the development for retention, subject to compliance with the following condition, would not have an adverse impact on the amenities of adjoining properties, and would be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be retained 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 10<sup>th</sup> day of April 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 prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
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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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Oluwatosin Kehinde  
Planning Inspector

04<sup>th</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>	retention permission for as-constructed attic side window and revised site boundary to enclose an additional garden to the rear of the existing dwelling.		
<b>Development Address</b>	Dunelm House, Caher Road, Islandduane, Mungret, Co. Limerick		
<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>	X
		<b>No</b>	No further action required
<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>			EIA Mandatory EIAR required
<b>No</b>	X		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>No</b>	X		No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Oluwatosin Kehinde

Date: 04<sup>th</sup> October 2024