



An
Bord
Pleanála

Inspector's Report ABP-320122-24

Development	RETENTION: Permission for 1) double garage, 2) ancillary mechanical pits and all associated site works and 3) PERMISSION to construct attic storage area.
Location	Camus, Cashel, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2460072
Applicant(s)	Raymond Heney
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Donal and Margaret Kennedy
Observer(s)	None
Date of Site Inspection	22 nd October 2024
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The site is located in a rural area on the regional road (R505) between Cashel and Dundrum, situated approximately 3km from Cashel.
- 1.2. The appeal site comprises of a two-storey house set back approximately 50m from the public road. The house has a large rear garden where the appeal structure, a double height garage, is located.
- 1.3. The appeal structure is a double height garage with two roller doors to the front. The structure is finished in dry render and therefore matches the existing two storey house on the appeal site.
- 1.4. The gradient of the appeal site rises slightly from the public road.

2.0 Proposed Development

- 2.1. Retention of permission is sought for the following.
 - a. A double garage.
 - b. The construction of ancillary mechanical pits.
- 2.2. These permissions are required as planning permission LA Ref. 15/600131 expired.
- 2.3. Planning permission is sought for the following;
 - a. Construction of an attic area with a double height garage.
- 2.4. The proposed double height garage is set back behind the rear building line of the existing two-storey house by approximately 6 metres.
- 2.5. The apex height of the proposed double garage is 6.3 metres, and the width of the front elevation is approximately 10.4 metres. The length of the double garage is approximately 14 metres.
- 2.6. The double garage will have a total floor area of approximately 174 sq. metres, comprising of a ground floor area of 135.24 sq. metres and a first-floor attic area with a floor area of approximately 39.2 sq. metres.

3.0 Planning Authority Decision

The Planning Authority decided to **grant** planning permission, by executive order dated 21st June 2024. The grant of permission includes 4 no. conditions which include the following;

1. Completed in accordance with plans.
2. Surface water drainage.
3. Garage is for ancillary use to dwelling.
4. Development contribution.

3.1. Planning Authority Reports

3.1.1. In summary the Planner's Report raises the following relevant issues.

- The nature of the development is considered acceptable.
- A justification for the scale of the garage was not submitted.
- Any justification should be the subject of a further information request.

The planning authority requested the following further information;

- a. Submit a justification for the size and scale of the garage (specific details of the use of same including the nature of items to be stored etc) and the requirement of 2 no mechanical pits,
- b. Provide details of the number of vehicles in the applicant's ownership together with official confirmation of ownership (e.g. Log Books and images etc),
- c. Provide details of the requirement for the yard to the rear,
- d. Details of the disposal of any oils, fuel and washings from the pit

3.1.2. Other Technical Reports

- None

3.2. Prescribed Bodies

- None

3.3. Third Party Observations

- None

4.0 Planning History

LA Ref. No. 15600131: Permission granted to construct a double garage.

LA Ref. No. 071832: Permission refused for bus parking hardcore area beside dwelling.

LA Ref. No. 99250: Permission granted for two storey dwelling house and septic tank.

5.0 Policy Context

5.1. Development Plan

The operational plan is the Tipperary County Development Plan, 2022 – 2028.

Section 4.14 of Appendix 6 of the Tipperary County Development Plan, 2022-2023, refers to Domestic Garages. The Development Plan states the following in respect of domestic garages;

‘The scale and detail of domestic garages shall be subordinate to the main dwelling and their use shall not impact on adjoining residential amenity. Detached garages should be less than 70sqm and should be discreetly located on the site to compliment the dwelling appearance and finish’.

5.2. Natural Heritage Designations

None relevant

5.3. EIA Screening

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.

An EIA Preliminary Examination form has been completed.

6.0 The Appeal

6.1. Grounds of Appeal

The following is the summary of a third-party appeal submitted by Donal Kennedy and Margaret Kennedy.

- There is a history of non-compliance by the applicant relating to the operating of a commercial enterprise at his dwelling.
- Permission was refused in relation to bus parking on the site in 2008.
- Following an Enforcement case the Cashel District Court required the developer to give an undertaking to remove all buses from the curtilage of the property.
- There are two entrances to the applicant's site. This includes the main entrance and an unauthorized entrance. The local authority has ignored this issue.
- The applicant has given the impression that the construction of the garage was the repeat of a previous application that expired which is misleading.
- The garage is not solely used for purposes incidental to the enjoyment of the dwelling house. The development plan requires domestic garages to have a floor area less than 70 sq. metres. The proposed garage for retention has a floor area of 174.32 sq. m.

- There was a history of a large number of cars parking on the site prior to the construction of the garage indicates that the applicant is involved in some sort of commercial enterprise on the site.
- The developer runs a transport business from the site which was unauthorised from the court case in 2009.
- It is contended that vehicles belonging to the transport business are kept by the drivers in their private properties but will return to the subject site once planning permission is granted.
- The nature of the planning authority further information request indicates that the local authority consider that the structure is a commercial garage.
- The appellant is not convinced that the requested information was received however and notwithstanding the planning authority granted planning permission.
- The grant of planning permission treats the structure as a domestic garage which is unacceptable.
- This has been misleading to members of the public.
- The planning authority has disregarded the fact that there is an unauthorised entrance and unauthorised transport business that operated from the site.
- The nature of the development including a building with mechanical pits, large parking area for vehicles, as well as a large attic area for storage clearly indicates this development is for commercial purposes.
- It is contended that the applicant will now use these facilities for servicing / repair of vehicles as he now has retention permission.
- There is no provision for the storage and disposal of oils / fuels, scarp parts or scarp vehicles. This would therefore be out of character with a high amenity residential area.
- The building is totally unsuitable for the area and as already stated will be a nuisance when used for the purpose it was built for.

6.2. Planning Authority Response

- The Planning Authority is satisfied that their decision to grant planning permission is appropriate in the interest of proper planning and sustainable development of the area.
- It is submitted that all issues raised have been addressed in the local authority Planner's Reports, and permission was granted having regard to planning history and relevant guidance in the Tipperary County Development Plan, 2022 – 2028.
- In relation to the agricultural entrance raised in the appeal submission it is contended that this is a long-standing entrance and did not form part of the planning application LA Ref. 15/600131.

6.3. Observations

None.

6.4. Further Responses

No valid responses received.

7.0 Assessment

Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issues on this appeal are as follows:

- Use of Domestic Garage
- Enforcement Issues

7.1. Use of Domestic Garage

The appeal submission contends the double height garage, which is the subject of this appeal, is used for commercial purposes in the form of a transport business and

is therefore not solely used for purposes incidental to the enjoyment of the dwelling house, which in accordance with the development plan provisions would require a domestic garage to have a floor area no greater than of 70 sq. metres.

I note the scale of the domestic garage, as described in this report in Section 2.0, however having regard to the documentation on the file, including the applicant's response to the further information request, and a site inspection, I would be of the view that the subject garage is not used for commercial purposes.

I note the provisions of Section 4.14 of Appendix 6 of the Tipperary County Development Plan, 2022 – 2028, and although the scale of the domestic garage is sizable I would consider that the siting of the garage to the rear of the existing dwelling house and its distance from the public road ensures that the subject garage is subordinate to the main dwelling and would not have an adverse visual impact on the amenities of the area.

I would note from the further information submitted to the local authority that it is confirmed that the applicant has no intention of generating any waste oils or fuels and does not intend to carry out any maintenance works to his own vehicles that generate waste oils and fuels.

I would recommend to the Board, in the event of a grant of permission, the inclusion of a condition restricting the use of the garage for purpose only incidental to the use of the main house.

7.2. Enforcement Issues

The appellant raises issues in relation to enforcement including the use of a second vehicular entrance, and that an unauthorised transport business operated from the site. At the time of inspection there were no buses on site or evidence of a commercial operation from the site. I would consider that the claim of an unauthorised use is an enforcement issue, and the Board has no jurisdiction in enforcement matters and this matter should be addressed by the local authority.

8.0 AA Screening

Having regard to the nature and small scale of the proposed development and the distance from 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 that permission for the above-described development be granted for the following reasons and considerations subject to conditions.

10.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed development and to the character of the general area, it is considered that subject to compliance with the conditions set out below, the proposed development would not affect the character of the area and would not seriously injure the residential or visual amenities of the area

or 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 retained and carried out in accordance with the plans and particulars submitted with the planning application except as may be otherwise required by the following conditions.

Reason: To clarify the plans and particulars for which permission is granted.

2. The garage and the associated yard area shall be used only for purposes incidental to the enjoyment of the dwelling house and shall not be used for any residential, commercial or industrial purposes.

Reason: In the interest of proper planning and development of the area.

3. 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.

Kenneth Moloney
Senior Planning Inspector

14th November 2024

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-32012-24		
Proposed Development Summary	RETENTION: Permission for 1) double garage, 2) ancillary mechanical pits and all associated site works and 3) PERMISSION to construct attic storage area.		
Development Address	Camus, Cashel, Co. Tipperary.		
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			Proceed to Q3.
No	✓		✓ No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	N/A		
No	✓		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			
5. Has Schedule 7A information been submitted?			

No	✓	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Inspector: _____ **Date:** _____