



An  
Bord  
Pleanála

## Inspector's Report

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<b>Development</b>	Substitute plans for a domestic garage with a granny flat (both granted permission under 12/00661), Downeen, Rosscarbery, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	16/93
<b>Applicants</b>	Conor & Deirdre O'Callaghan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Appellant</b>	John Hunt
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. grant
<b>Observer(s)</b>	None
<b>Inspector</b>	Pauline Fitzpatrick
<b>Date of Site Inspection</b>	02/09/16

## 1.0 SITE LOCATION AND DESCRIPTION

- 1.1. The site, which has a stated area of 0.221 hectares, is located at the junction of two minor local roads in the townland of Downeen c. 1.5km to the south of Rosscarbery. One off housing is prevalent in the vicinity. The site is afforded views of both the sea to the south and Downeen Castle to the south-west.
- 1.2. The site is roughly rectangular in shape with gentle falls from north to south. There is a dwelling positioned in the north-eastern most corner of the site, the access to same being from the local road bounding the site to the north.
- 1.3. The site is bounded by a single storey dwelling to the north-east with the shared boundary stepping back from the roadside delineated by a dense hedge . The other boundaries are delineated by a stone wall and/or hedge.

## 2.0 PROPOSED DEVELOPMENT

- 2.1. There is an extant permission under ref. 12/0661 for demolition of the dwelling on the site and its replacement, in addition to provision of detached garage/boathouse structure. The proposal in this instance is to omit the approved garage structure and to construct a self-contained 'granny flat' in its place.
- 2.2. The original proposal entailed a two storey, 2 no. bedroom unit with a stated floor area of 128.8 sq.m. and ridge height of 6.050 metres to be positioned side-on to the public road in the north-eastern corner of the site.
- 2.3. Further information (received 17/05/16 & 19/05/16) following a request from the Planning Authority dated 01/04/16 details a revised design for a single storey unit with a reduced floor area of 77.1 sq.m. and height of 5.150 metres. Revised public notices were submitted 19/07/16.

**Note:** Reference is made in the 1<sup>st</sup> Planner's report to a covering letter dated 11/02/16 accompanying the application. A copy of the said letter is not on file.

### 3.0 **PLANNING AUTHORITY DECISION**

#### 3.1. **Decision**

The PA decided to grant permission for the above described development subject to 9 conditions. Of note:

Condition 2: building to be used only for ancillary purposes to the main dwelling and not as a separate dwelling unit. It is to be occupied by a member of the immediate family of the occupier of the main dwelling. It shall not be used as a separate holiday home and/or residential use or letting without the written consent of the PA.

Condition 3: In all other respects the development is to comply with the terms and conditions of the permission reference 12/661 with the exception of conditions 9 and 10.

Condition 4: No roof lights to be inserted in any part of the roof. The loft space shall be used for storage and shall not be used for human habitation.

#### 3.2. **Planning Authority Reports**

The **1<sup>st</sup> Planner's** report dated **31/03/16** details the planning history and the requirements re. placement of development on the site so as to retain views of Downeen Castle from the scenic route in the vicinity. It is noted that the permitted garage/boathouse was to be 0.8 metres (sic) from the north-eastern boundary. An oil tank on the adjoining site does not effectively sterilise part of neighbouring lands. Reference is made to a Board decision in the vicinity, file ref. PL88.244479, for which permission was refused for conversion of a garage to use as a dwelling. All evidence suggests that the applicants had intended the proposed granny flat from the outset. The proposed design is effectively the same as that granted. Also the approved wastewater treatment plant had in mind the ability to cater for additional residents. The question is whether the proposal is for a new dwelling or a granny flat. It is considered to be the former with the floor area to be bigger than the existing dwelling on the site to be demolished. It does not read as being ancillary to the main

dwelling. Should a freestanding structure be pursued forward of the approved building line it should be reduced in scale with accommodation provided on one level. Given the siting of the neighbouring dwelling and the high mature hedgerow its amenities would not be compromised. A request for further information seeking revised plans entailing a unit reduced in scale with ground floor accommodation, only, is recommended. The **2<sup>nd</sup> report** following FI dated **10/06/16** considers the amended plans to be a significant improvement on the plans originally submitted. A grant of permission subject to conditions is recommended. A covering letter advising of the differing timescales relative to the permission granted under ref.12/661 and the fact that the granny flat cannot be erected until such time as the dwelling permitted under ref. 12/661 is constructed is recommended.

### 3.3. **Other Technical Reports**

- 3.3.1. The **Area Engineer** in reports dated **03/03/16** & **18/05/16** has no objection subject to conditions attached to ref. 12/661.
- 3.3.2. **Irish Water** in a report dated **14/02/16** has no objection subject to conditions.

### 3.4. **Third Party Observations**

Objections to the proposal raised issues relating to proximity of development and impact on amenities of adjoining property, density on the site and distance to oil storage tank unit.

## 4.0 **PLANNING HISTORY**

**12/661** – permission granted in February 2013 for demolition of existing dwelling, construct new dwelling, domestic garage and install sewage treatment system.

Condition 9 precluded the use of the loft space of the garage for habitable purposes.

Condition 10 required the garage to be used for purposes incidental to the enjoyment of the dwelling

## 5.0 POLICY CONTEXT

### **Cork County Development Plan, 2014**

The site is within a 'Tourism and Rural Diversification Area which has experienced high housing construction rates ...and has led to concerns that a higher demand for holiday and second homes is depriving genuine rural communities and the opportunity to meet their own rural generated housing needs. It is an objective that applicants must demonstrate that their proposal complies with a number of specified categories.

Section 5.7.12 and 5.7.13 address the provision of ancillary family accommodation in granny flats.

Consideration can be given to building ancillary accommodation either as an extension to an existing house or as a separate dwelling unit in cases where it can be shown that such is required for a family member.

This provision allows families to provide accommodation for older or disabled relatives/persons. These units should be permitted where the following criteria can be met:

- There is only one dwelling and one ancillary accommodation unit on the same site.
- The ancillary unit should not impact adversely on either the residential amenities of the existing property or the residential amenities of the area.
- The property and the site should not be subdivided.
- The unit should be integrated visually with the existing dwelling.

- Additional parking, sewage treatment units or private amenity space is not required.
- The unit should not be sold off separately from the existing dwelling and a Section 47 agreement should be entered into by the property owner to ensure that any physically separate unit be retained as part of the existing property in perpetuity as a burden on the title.

The L-8337-0 to the east of the site is a designated scenic route.

Objective GI7-2 – to protect the visual and scenic amenities of the area and ensure that new development meets a high standard of design, discourage the removal of hedgerows, trees and historic walls

## 6.0 NATURAL HERITAGE DESIGNATIONS

The site is approx. 5km to the west of Kilkeran Lake and Castlefreke Dunes SAC (site code 001061).

## 7.0 THE APPEAL

### 7.1. Grounds of Appeal

The 3<sup>rd</sup> Party appeal against the PA' s notification of decision to grant permission can be summarised as follows:

- The proposal entails a dwelling which is to be located 1.8 metres from the shared boundary. This is tighter than the 6 metres of open space between the dwelling as approved under re. 12/661.
- The proposed dwelling encroaches on the current site boundary.
- Based on the proposed location of the main access door and the proximity to the site boundary the proposal will result in a loss of privacy.
- The proposed increase in density would devalue his property.

- The proposal should be relocated a reasonable distance from the current boundary.
- No detail has been provided as to why the family member cannot be accommodated within the main dwelling. Were this to be done then the boundary and density impacts could be mitigated.
- The proposed structure could be accommodated within the site without impacting views of Downeen Castle.

## 7.2. Planning Authority Response

The response can be summarised as follows:

- The dwelling is considered ancillary to the main dwelling. Condition 2 precludes the use of the attic for habitable purposes.
- The separation distance between the garage as approved on the site and the boundary is 0.8 metres (sic) and not 6 metres.
- The existing hedge along the common boundary should alleviate issues of privacy.
- There is no objective that requires the provision of such accommodation in the main dwelling house.

## 7.3. Applicants' Responses

The 1<sup>st</sup> Party response to the grounds of appeal can be summarised as follows:

- The building design has been altered from that originally submitted. It is now single storey. It would be less imposing than the garage permitted on the site.
- The door at the back of the building has been removed. It is queried how a door at the front would result in an invasion of his privacy.
- There is extensive hedging along the common boundary which would prevent overlooking at ground level.

- The main dwelling and garage location as permitted are as a consequence of the PA's requirements to maintain views to Downeen Castle. The relocation of the granny flat would raise the issue of obstruction of views again.
- It is considered that the location as proposed, which was not their first preference, will actually give the appellant additional privacy from their main house.
- The position of the granny flat would allow the applicant's mother a level of independence.

#### 7.4. **Observations**

None

### 8.0 **ASSESSMENT**

8.1. I consider that the issues arising in this appeal can be addressed under the following headings:

- Principle of Development and Compliance with Development Plan Provisions
- Impact on Amenities of Adjoining Property
- Appropriate Assessment

#### **Principle of Development and Compliance with Development Plan Provisions**

8.2. There is an existing permission on the site under reference number 12/661 for the demolition of the existing dwelling and its replacement with a two storey dwelling with a floor area of approx. 248 sq.m., to be served by a detached garage/boathouse with a stated floor area of 77.1 sq.m. During the assessment of the said application the position of both the dwelling and the garage were modified following a request for further information by the Planning Authority seeking to address impacts on views of Downeen Castle and its the visual integration into the landscape. As per the plans as permitted the garage is to be positioned in the north-eastern corner of the site,



side-on to the road with a setback of 1.8 metres from the shared boundary with the appellant's property. The dwelling as permitted is to be setback 6 metres from the shared boundary. Work has yet to commence with the existing dwelling still on site.

- 8.3. Whether or not the applicants had plans for such a 'granny flat' at the time of the above application as mooted in the Area Planner's reports on file is not of relevance although the garage is of a size and design which would lend credence to such a view. The application at that stage was assessed in the context of the development as proposed, namely replacement dwelling and garage. I also note reference in the said reports to file ref. PL88.244479 in which the Board refused permission for conversion of a garage to use as a dwelling at Derrygreen, Skibbereen. Notwithstanding the premise that each case is assessed on its merits I submit that the cases are not directly comparable.
- 8.4. The proposal before the Board is for the substitution of the permitted garage structure for a self-contained living unit or 'granny flat' to be occupied by the mother of one of the applicants. The original plans entailed what was effectively a two storey unit which provided for a floor area of 128.8 q.m. which, in itself, is larger than the existing 120 sq.m. dwelling on the site which is to be demolished. Following the planning authority's concerns regarding the size of the unit the plans were modified to provide for a single storey unit, only, with a stated floor area of 77.1 sq.m. which is comparable in scale to the garage as permitted, albeit with a lower ridge height. Invariably alterations to the fenestration are required. Its position on site is to mirror that of the permitted garage, namely that it is to be located in the north-eastern corner, with a setback of 1.8 metres from the shared boundary.
- 8.5. The current County Development Plan allows for a positive presumption towards ancillary family accommodation in granny flats, either as an extension to a dwelling or as a separate dwelling unit where certain specified criteria are met. Thus there is no specific requirement that such type provision be attached to the main dwelling.

As noted the unit is for the mother of one of the applicants. Therefore subject to compliance with the stated criteria the principle of the proposal is acceptable.

8.6. In terms of compliance with the said criteria I submit that:

- The unit will appear subservient and ancillary to the main dwelling permitted on the site and is so designed that it will integrate visually with same. No other accommodation is proposed.
- The unit would not impact adversely on the residential amenities of the permitted dwelling. I propose to address the issue of impact on the amenities of adjoining property in more detail below.
- Additional parking and private amenity space is not required whilst the effluent treatment plant to serve the permitted dwelling, designed for a P.E. of 9, has sufficient capacity to accommodate the proposal.
- A positive decision in this instance would be subject to a condition precluding the occupation of the unit save for its intended use by a family member.

Therefore I consider that the proposal to be in compliance with the Development Plan provisions for such type accommodation.

### **Amenities of Adjoining Property**

8.7. As noted above the proposed living unit, as amended by way of further information, is to be of a comparable size and is to be located as per the permitted garage/boathouse structure, which is forward of the building line of the appellant's dwelling. A setback of 1.8 metres is to be maintained from the shared boundary with a setback of 1.6 metres from the roadside boundary. Thus it will not encroach on the boundaries as contended by the appellant. The position of the dwelling which it is to be ancillary to is not to be altered from that as permitted and will be 6 metres from the shared boundary with the appellant.

- 8.8. The structure will also have a lower ridge height of 5.150 metres against that permitted of 6.050 metres. Whilst windows are proposed to be north-eastern elevation, the current boundary treatment with a dense hedge will preclude any overlooking. Therefore no loss of privacy would arise. Access to the unit will be from the south-western elevation away from the boundary shared with the appellant.
- 8.9. In conclusion I am of the opinion that the proposed development would not have adverse impacts on the amenities of the appellant's dwelling and would not detract from the amenities of the area.

### **Appropriate Assessment**

- 8.10. Having regard to the nature and scale of the development 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**

Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and the assessment above I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

### **REASONS AND CONSIDERATIONS**

Having regard to the scale, nature and design of the proposed development, to the pattern of development in the vicinity and to the nature and extent of the development as permitted under planning reference number 12/0661, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of

property in the vicinity by reason of overlooking or loss of privacy, and would in accordance with the provisions for ancillary family accommodation in granny flats as set out in the current Cork County Development Plan, 2014. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **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 submitted on the 17<sup>th</sup> day of May 2016, and shall comply with the conditions attached to the permission granted on the site by the planning authority under planning register reference number 12/0661 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. The proposed granny flat shall be used for purposes ancillary to the main dwelling, only. It shall be occupied solely by a member of the immediate family member of the occupier of the main dwelling. It shall not be sold or let independently of the main house and, when no longer required for use as a granny flat, shall revert to use for purposes incidental to the enjoyment of the dwellinghouse.

**Reason:** In the interest of clarity and residential amenity

3. The external finishes of the dwelling including roof tiles and slates shall be the same as those of the dwelling permitted under planning reference number 12/0661 in respect of colour and texture.

**Reason:** In the interest of visual amenity

4. . Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of rear garden spaces is retained for the benefit of the occupants of the dwellings and in the interest of the amenities of the area.

5. Water supply and drainage arrangements, including the [attenuation and] disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. 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.

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**Pauline Fitzpatrick**  
**Inspectorate**

**September 2016**

**Attachments**

- 1. Photographs**
- 2. Extracts from Cork County Development Plan, 2014**