



An  
Bord  
Pleanála

## Inspector's Report PL04.248900

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<b>Development</b>	Detached granny flat/dwelling unit and associated site works.
<b>Location</b>	Knocknahorgan, Glanmire, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	16/07315
<b>Applicant</b>	Ted Kiely
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellant</b>	Michael Forde
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24/10/17
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

- 1.1. The site to which the appeal refers constitutes part of a larger site on which there is an existing dormer dwelling which is accessed from a local road c. 1.5km to the north-west of Glanmire Shopping centre. The general area is characterised by detached, one off dwellings served by individual road entrances. The site has a stated area of 0.3 hectares and is elevated over the road. The site boundaries are delineated by trees and hedgerows to the north, east and west. By reason of the site configuration the area where the dwelling unit is proposed is to the rear and upslope of a single storey dwelling which has frontage onto the local road. The shared boundary is delineated by a low wire fence.

## 2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the 23/12/16 with further plans and details submitted 03/05/167 following a further information (FI) request dated 24/02/17 with revised public notices received 29/05/17.
- 2.2. The proposal entails the construction of a self-contained, detached, one-bedroom dwelling unit/ 'granny flat' with a stated floor area of 65 sq.m and ridge height of 5.6 metres. A separation distance of 9.4 metres is to be maintained to the existing dwelling on site with tree planting proposed in-between. It is to have a finished floor area of 100.58m which is 3.76 metres higher than the finished floor level of the dwelling to the south.
- 2.3. A new effluent treatment system with polishing filter is proposed to replace the existing septic tank to serve the existing and proposed dwellings. A site characterisation form has been submitted. No groundwater was encountered in the trial hole with a T-value of 7.47 recorded. Water supply is to be from the existing well.
- 2.4. Planting along the shared boundary with the dwelling to the south is proposed.
- 2.5. The applicant currently resides in the dwelling on the site which he has gifted to his daughter. She is willing to enter a section 47 agreement.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant subject to 14 conditions. Of note:

Condition 3: The building shall be occupied by a member of the immediate family of the occupier of the main dwelling and shall be limited to use as ancillary domestic accommodation. The ancillary accommodation and the existing house combined shall be confined solely to use as a single private dwelling unit in perpetuity as a burden on the title.

Condition 5: Site to be landscaped in accordance with scheme to be agreed with the planning authority and shall be completed prior to first occupation of the unit.

Condition 6: €1500 security to guarantee satisfactory completion of tree and shrub planting as required by condition 5.

Condition 9: 70 metre sight distances to be provided.

Condition 10: Surface water to be disposed of within the site by means of soakaways.

Condition 14: Requirements in terms of septic tank and percolation area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The 1<sup>st</sup> Planner's report dated 24/02/17 notes that as the application is for the provision of ancillary accommodation for an elderly family member the provisions of RCI 4-1 in terms of settlement location policy for the metropolitan greenbelt shall not apply. The applicant has resided at the site for a significant period of time.

Additional information is necessary so as to justify why the applicant requires to live adjacent to the family home and why alternative accommodation cannot be found.

Evidence that the property owner is willing to enter into a section 47 agreement is also required to ensure that the separate unit is retained as part of the existing property in perpetuity. Details are required with respect to the overlooking and loss of privacy of adjoining property and concerns regarding lack of visual integration with

the existing dwelling on the site. The scale of additional parking should be reconsidered. Details are required on the existing septic tank and ability to accept additional loading. It is noted that the Area Engineer did not highlight any concerns about the proposed soakaways. A request for further information is recommended. The 2<sup>nd</sup> report dated 22/06/17 following FI considers the need for the unit has been justified. A standard condition requiring the separate unit to be retained as part of the existing property in perpetuity as a burden on the title shall be attached and that there is no need for a formal section 47 agreement. The separation distance between the proposed unit and the property to the south is considered satisfactory. When combined with the proposed planting it is considered that the potential for overlooking would be mitigated. The landscaping will be of importance. Whilst a greater effort could have been made in reducing the separation distance to the main dwelling on the site the reduction of 3 metres is considered satisfactory. A grant of permission subject to 14 conditions is recommended.

#### 3.2.2. Other Technical Reports

The 1<sup>st</sup> Area Engineer's report dated 17/02/17 notes that the application has detailed adequate parking and turning facilities with alterations to the existing site entrance to improve sight lines. A survey of the existing effluent disposal system is required to ensure it can cater for the additional loading. The 2<sup>nd</sup> report dated 21/06/17 following FI has no objection subject to conditions.

#### 3.3. **Prescribed Bodies**

Irish Water has no objection.

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

Objections to the proposal received by the planning authority have been forwarded to the Board for its information. The issues raised relate to overlooking, loss of privacy, location of soakaway, adequacy of septic tank and site access.

## 4.0 Planning History

Permission refs. 87/564 & 93/1062 as detailed in the planner's report pertain to the existing dwelling on the site.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2014

Sections 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.

### 5.2. Natural Heritage Designations

None in the vicinity

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The submission by D.A. Kearney on behalf of the 3<sup>rd</sup> party appellant against the planning authority's notification of decision to grant permission can be summarised as follows:

- The planning authority did not apply the requirements as set out in section 5.7.13 of the County Development Plan.
- The dwelling will overlook his property and will result in loss of privacy. It constitutes backland development.
- In order to comply with the requirement that the unit be integrated visually with the existing dwelling it is contended that this can only be achieved by setting the new unit behind the building line of the existing house.
- No section 47 agreement was attached to the decision to grant permission.
- The proposal to provide for a new effluent treatment system to serve the existing and proposed dwellings units did not form part of the original application and is not referenced in the public notices. It may have uncertain effects on groundwater in the area.
- No detailed landscaping proposals are available.
- Conditions 5 & 6 addressing site planting and provision of a security/bond are unreasonable and unenforceable. Privacy can only be achieved by proper siting of structures. By applying the conditions the planning authority has, in effect, confirmed that it is not satisfied that the location and configuration of the new unit is appropriate. For the condition to be workable the screening must be in place and have reached some maturity prior to occupation of the unit. The condition is silent on species and number and age of plants to be used. The management of the planting scheme into the future has not been addressed.
- The submission of the plan for agreement with the planning authority precludes 3<sup>rd</sup> parties from commenting on same.

## 6.2. **Applicant Response**

None received.

## 6.3. **Planning Authority Response**

Issues have been covered in the technical reports forwarded to the Board. No further comment.

## 6.4. **Observations**

None

## 7.0 **Assessment**

7.1. I consider that the substantive issues arising in the case are the suitability of the site layout and impact on amenities of adjoining property.

7.2. The applicant who was originally the owner of the dwelling has gifted same to his daughter and is now seeking a separate living unit on the site. The current County Development Plan allows for a positive presumption towards ancillary family accommodation in granny flats where certain specified criteria are met. There is no specific requirement that such type provision be attached to the main dwelling. I consider that the applicant has provided sufficient detail in support to justify the application and, as such, the proposal is acceptable in principle. However, such acceptability is predicated on certain criteria being met as set out in section 5.7.13 of the County Development Plan.

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

### **Number of Units**

7.4. There is only one dwelling and one ancillary accommodation unit proposed on the site as required.

## **Residential Amenities**

- 7.5. The unit would not impact adversely on the residential amenities of the existing dwelling on the site but, in my opinion, will have an adverse impact on the residential amenities of the area, specifically the appellant's property to the south. The location of the proposed dwelling unit is to the north and rear of the appellant's property and will have a finished floor level of 100.58 metres which is 3.76 metres higher than that of the appellant's. As noted above the building line of the existing dwelling on site is to be maintained which results in a setback of 14.5 metres from the shared boundary with 33 metres between opposing windows. The shared boundary is delineated by a wire fence with unfettered views between the sites.
- 7.6. Notwithstanding the separation between opposing windows I am of the opinion that due to the elevated nature of the site relative to the appellant's property and the proposed layout and dwelling configuration with a southern orientation, when coupled with the absence of any boundary screening, would result in overlooking and loss of privacy. As noted whilst planting is delineated on the site plan accompanying the application no details have been provided and in view of the importance of such detail in this instance such information would more appropriately be sought during the planning application process allowing for 3<sup>rd</sup> party participation rather than by way of condition and agreement with the planning authority only.

## **Property Subdivision**

- 7.7. The applicant and the site owner are agreeable to the requirement that the property and site not being subdivided.

## **Visual Integration**

- 7.8. Whilst the unit is small with a stated floor area of 65 sq.m., I submit that as a consequence of its design and positioning to the side of and with the same building line as the main dwelling it will not appear subservient and will not integrate visually with same. This is not assisted by the setback of 9.4 metres to be maintained and proposals for planting in between.

## **Site Services**

Additional parking and private amenity space are not proposed. Following an assessment of the existing effluent treatment system on the site the need to upgrade



to ensure capacity for the additional loading is required. I note that the revised public notices make reference to the provision of the new system whilst a site characterisation form and site specific proposals were submitted by way of further information.

### **Section 47 Agreement**

- 7.9. 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.

### **Conclusion**

- 7.10. On the basis of the above I consider that the proposed development in its current iteration does not comply with the criteria as set out in Section 5.7.13 of the development plan. Whilst the provision of a new effluent treatment system would be generally welcomed I consider that the issues arising with respect to design and impact on amenities of adjoining property are more substantive. In view of the sensitivities in terms of its location to the rear of the appellant's property I do not consider that addressing matters of setback and separation from the main dwelling by way of condition to be sufficient. In my opinion an examination of alternative design solutions which would allow for the provision of the ancillary accommodation unit on the site and which would ensure that the amenities of adjoining property are protected whilst providing for greater visual integration is necessary. I therefore recommend a refusal of permission in this instance.

### **AA - Screening**

Having regard to the location of the site and its separation from the nearest designated site and the nature and scale of the proposed 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.

## **8.0 Recommendation**

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

## 9.0 Reasons and Considerations

Having regard to the location of the site to the rear of an existing single storey dwelling and the design and configuration of the proposed dwelling unit, it is considered that the proposed development would have an adverse impact on the residential amenities of adjoining property by reason of overlooking and loss of privacy and would not visually integrate with the existing dwelling on the site. The proposed development would, therefore, contravene the current development plan requirements for ancillary family accommodation in granny flats as set out in sections 5.7.12 and 5.7.13 and would be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Planning Inspector**

**November 2017**