



An
Bord
Pleanála

Inspector's Report

ABP-305350-19

Development	Erection of extensions to house, carry out alterations to same, to erect a detached domestic garage/store
Location	Hydepark, Ballylarkin, Co Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20190845
Applicant(s)	Susan Perrott
Type of Application	Permission
Planning Authority Decision	Refused
Type of Appeal	First Party
Appellant(s)	Susan Perrott
Observer(s)	None
Date of Site Inspection	13 th December 2019
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.266 ha is located on a narrow local road in a rural area of Wexford half way between Arklow and Gorey. Located centrally within the site there is a small traditional storey and a half dwelling with lean-to rear extension and a small front porch. To the south west is a private garden and the private bore well serving the house. To the north east is a small shed and a wooded area that slopes down towards the Inch River. There is a surface water ditch at the road.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail

2.0 Proposed Development

- 2.1. Permission is sought to erect an extension (104 sqm) to the existing dwelling house (125.6 sqm), alterations to same, the construction of a detached domestic garage/store (20 sqm), construction of a replacement wastewater treatment system with polishing filter to EPA 2009 specification and all associated ancillary siteworks.
- 2.2. The application was accompanied by a Site Suitability Assessment for Wastewater Treatment Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Wexford County Council issued a notification of decision to refuse permission for the following reason:

Based on the presence of a designated flood zone encroaching significantly within the site and within the immediate vicinity of the proposed wastewater treatment system and based on the evidence of failed drainage conditions, the underlying subsoil may not be capable of hydraulically disposing of the effluent generated by the proposed development and therefore the proposal may give rise to a public health hazard.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Case Planner stated that given the failed T-tests and the location of the development within a flood risk zone the proposals may give rise to a public health hazard. The Case Planner recommended that permission be refused. The notification of decision to refuse permission issued by Wexford County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Environment** – Recommended refusal for the following 2 no reasons:
 - 1) *Based on the presence of a designated flood zone encroaching significantly within the site boundary and within the immediate vicinity of the proposed waste water treatment system it is the opinion of Wexford County Council Environment Section that the public health risk posed by the proposed development is extreme.*
 - 2) *It is the opinion of Wexford County Council Environment Section that based on the evidence of failed drainage conditions the underlying subsoil may not be capable of hydraulically disposing of the effluent generated by the proposed development and that the proposed development may give rise to a public health hazard.*
- **Chief Fire Officer** – No stated planning objection. Requirements for compliance with Building Regulations outlined.

3.3. Prescribed Bodies

3.3.1. There are no reports recorded on the appeal file.

3.4. Third Party Observations

3.4.1. There are no third party observations recorded on the planning file.

4.0 Planning History

4.1. There is no evidence of any previous planning appeal at this site. The following planning history has been made available with the appeal as summarised. No drawings or details have been submitted with the history files.

- **Reg Ref 88239** – In 1988 permission granted for an extension subject to conditions.
- **Reg Ref 28857** – In 1987 permission granted to erect an extension and installation of sewage facilities subject to conditions.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Wexford County Development Plan 2013 – 2019**. Relevant policies and objectives are as follows:

- Section 12.6 Managing Flood Risk
- Section 14.4.2 Landscape Character Assessment – Lowlands
- Section 18.13.1 House Extensions
- Section 18.13 Domestic Garages / Stores
- Section 18.8 Accessibility
- Section 18.32 On Site Wastewater Treatment Facilities

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site. The closest site is as follows:

- Kilpatrick Sandhills SAC (001742) located c 3.7 km east from the appeal site
- Slaney River Valley SAC (000781) located c 7.6 km west from the appeal site

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

- 6.1.1. The first party appeal has been prepared and submitted by the applicant, Susan Perrott and may be summarised as follows:

- Misinterpretation of Flood Maps used as basis for refusal i.e. Wexford County Council use two maps from their County Development Plan (2013 – 2019).
- One map is prepared by the OPW which correctly records actual flood events as they occur.
- The other map prepared by JBA Engineers shows a totally different extent of probable flooding (1%) – this map was used as a basis for refusal.
- The existing house is 5m to 6m above the flood level of the Inch River and will never be subject to the flooding shown on the JBA map.
- The existing house is served by a single chamber septic tank which discharges untreated sewage into the ground adjacent to the Inch River.
- The application included a site suitability study which specified a treatment plant that would remedy this situation.
- Loss to understand the logic of refusing the upgrade of the sewage system which itself lies within the flood risk area as denoted on JBA map.
- This existing septic tank is registered with the Council and if the EPA inspected this tank it would not conform to the required standards and the cost of upgrading the system would be grant aided.

6.2. Planning Authority Response

- 6.2.1. Wexford County Council in their responses to the appeal set out the following:

Based on both failed drainage conditions and flood risk, the proposal may pose a public health hazard. No additional or revised proposals have been submitted to demonstrate that there would not be a risk to public health.

6.3. Observations

6.3.1. No observations recorded on the appeal file.

6.4. Further Responses

6.4.1. No further responses recorded on the appeal file.

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Waste Water Treatment
- Other Issues

7.2. Principle

7.2.1. As set out above permission is sought to erect an extension (104 sqm) to the south west side gable of the existing dwelling house (125.6 sqm) together with the construction of a detached domestic garage/store (20 sqm) to the north east of the existing dwelling.

7.2.2. While this is a substantial extension relative to the existing dwelling in almost doubling the floor area I am satisfied that the scale and design of the scheme is acceptable. Having regard to the extent of private amenity space associated with the house I am also satisfied that the scheme proposed will ensure that an acceptable level of private open space is retained. Furthermore the location and modest scale of the garage proposed is also acceptable.

7.2.3. Having regard to the location of the site in area identified as “Lowlands Landscape” I am satisfied that the proposed scheme will be unobtrusive and that the development would have a low visual impact. The overall scheme proposed in terms of design, scale and visual impact is acceptable.

7.3. **Waste Water Treatment**

7.3.1. Planning permission is also sought of the construction of a replacement wastewater treatment system with polishing filter to EPA 2009 specification. As documented above planning permission was refused for the following single reason:

Based on the presence of a designated floor zone encroaching significantly within the site and within the immediate vicinity of the proposed wastewater treatment system and based on the evidence of failed drainage conditions, the underlying subsoil may not be capable of hydraulically disposing of the effluent generated by the proposed development and therefore the proposal may give rise to a public health hazard.

7.3.2. As documented above, planning permission was granted in 1987 to erect and an extension together with the installation of sewage facilities subject to conditions (Reg Ref 28857 refers). It is noted that Condition No 4 required that the septic tank be designed and constructed in accordance with the Local Government Plan S.I. (revised 1961). The Chief Medical Officers Report recommended that the septic tank be relocated towards the eastern boundary of the site with percolation area and reserve percolation area to run in an east west direction. No details of the location of the permitted septic tank and percolation area have been provided.

7.3.3. In a grant of permission the following year, in 1988, permission was also granted for an extension subject to conditions. Condition A required that the septic tank drainage system be designed, constructed and maintained in accordance with the recommendations in the Institute for Industrial Research and Standards as set out in SR 6 1975. Again, no details of the location of the permitted septic tank and percolation area have been provided.

7.3.4. As set out above no details or location of the existing sewage facilities on site have been provided either by way of planning history or on the plans and particulars submitted with the appeal file. However it is noted from the appeal that *the existing*

house is served by a single chamber septic tank which discharges untreated sewage into the ground adjacent to the Inch River. There is no doubt, but that the existing system as described is unacceptable.

- 7.3.5. The relevant guidance in respect of individual wastewater treatment systems is provided by the recently published The EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses, 2009. The application was accompanied by a Site Suitability Assessment for Wastewater Treatment Report which recorded a T = Fail with P = 60. The report specified a proposed Eurotank WWTS and 20sqm Sand Polishing Filter on infiltration bed of 72sqm with imported soils of 3-20 and 45sqm of willow.
- 7.3.6. Having regard to the current situation as documented in the appeal I consider that in all likelihood the risk to public health is much greater in respect of the existing septic tank than from the proposed system. On this basis, together with the relatively modest extension to the existing house, I consider the proposed system to be an improvement to the existing waste water treatment arrangements on site and that same would be adequate to treat and dispose of the foul effluent without undue greater risk to public health than the existing situation.
- 7.3.7. With regard to the presence of a designated floor zone encroaching significantly within the site and within the immediate vicinity of the proposed wastewater treatment I refer to the OPW CFRAM Flooding Maps at floodinginfo.ie and note that there was a flood event at the Clonough Bridge in August 1986 at a location removed from the appeal site to the north (copy of map and report attached). The report states that Clonough Bridge was swept away by high flows following major storm (Hurricane Charlie) and was subsequently rebuilt. The appeal site was not affected by this event. The Layer Information available on the website shows the modelled extent of land that might be flooded by rivers in a severe flood event. There is no low, medium or high probability of river flooding in the area of the appeal site in the maps and plans available.
- 7.3.8. Having regard to the information available together with the 2 – 3 metre ground level difference between the lower level of river and the proposed treatment system and percolation area at the higher level I am satisfied that the likelihood of fluvial flooding from the River Inch encroaching within the site and / or within the immediate vicinity

of the proposed wastewater treatment system to be limited. I also refer to Section 5.28 of the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009). I am satisfied that the scheme before the Board is for a minor development and is unlikely to raise significant flooding issues. Accordingly there is no objection to the proposed location of the replacement wastewater treatment system with polishing filter at the location proposed.

- 7.3.9. Overall, I consider having regard to the very nature of the current application before the Board i.e. seeking permission for construction of a replacement wastewater treatment system with polishing filter to EPA 2009 specification; that it is reasonable to conclude that the existing system is inadequate and non-compliant with current standards and requirements and of itself may currently give rise to a greater public health hazard than the proposed replacement system. Accordingly, it is considered that to permit the proposed replacement system to treat and dispose of the foul effluent generated by the extended dwelling house to be acceptable.

7.4. **Other Issues**

- 7.4.1. **Appropriate Assessment** - From a review of the available mapping (including the website of the National Parks and Wildlife Service) it is evident that the project site is not located within any Natura 2000 designation. The nearest site is the Kilpatrick Sandhills SAC (001742) located c 3.7 km east of the appeal site and the Slaney River Valley SAC (000781) located c 7.6 km west of the appeal site. Having regard to the location of the project outside of any Natura 2000 designation, and the separation distances involved, it is clear that the project will not directly impact on the integrity of any European Site (such as by way of habitat loss or reduction).
- 7.4.2. Having regard to the location of the site proximate to the Inch River and by employing the source / pathway / receptor model of risk assessment consideration needs to be given to the potential discharge of surface water from the project to this river located c 20m to the north of the site and downhill of the proposed waste water treatment system and percolation area. It is noted having regard to the Site Layout Plan that that surface water will be attenuated on site in an existing open garden pond (soakpit), again at a location that is uphill to the Inch River. Having regard to the available mapping it is noted that the Inch River discharges to the sea at a

location to the east of the appeal site at point that is removed from any Natura 2000 site.

- 7.4.3. Having reviewed the available information, and following consideration of the 'source-pathway-receptor' model, I am satisfied given the nature and scale of the development proposed, the site location outside of any Natura 2000 designation, the separation distances involved between the site and nearby designations, and the surface water drainage arrangements proposed whereby runoff from the development will be attenuated the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of the aforementioned Natura 2000 sites.
- 7.4.4. Accordingly, it is reasonable to conclude, having regard to the nature and scale of the proposed development comprising a residential extension and new waste water treatment system and its distance to 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.
- 7.4.5. **Development Contributions** – Wexford County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended): Wexford County Council Planning Authority Area Development Contribution Scheme 2018. I have reviewed the categories of development that will be exempted, or partly exempted, from the requirement to pay development contributions under the 2018 Scheme. Note 1 states that in the *case of extensions, where the dwelling has not been extended previously, the first 40 square metres will be exempt.* Having regard to the scale of the proposed extension (greater than 40sqm) the proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000

8.0 Recommendation

8.1. It is recommended that permission be **GRANTED** for the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1. Having regard to the site's location and the policy and objective provisions in the Wexford County Development Plan 2013-2019 in respect of residential development, the nature, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of public health and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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>
2.	<p>(a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>(b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the</p>

	<p>standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>(c) Within three months of completion and operation of the proposed septic tank drainage system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health</p>
3.	<p>Details of the materials, colours and textures of all the external finishes and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
5.	<p>The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of adjoining property in the vicinity</p>
6.	<p>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</p>

and Development Act 2000, as amended. The contribution shall be paid prior to the 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

Mary Crowley

Senior Planning Inspector

8th January 2020