



An  
Bord  
Pleanála

## Inspector's Report ABP 306104-19

---

<b>Development</b>	Retention of dwelling on the footprint of previous dwelling and connection to existing septic tank.
<b>Location</b>	Bawnlahan, Tragumna, Skibbereen, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	19/602
<b>Applicant</b>	Fiona McCarthy
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	1 <sup>st</sup> Party v. Refusal
<b>Appellant</b>	Fiona McCarthy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	03/03/20
<b>Inspector</b>	Pauline Fitzpatrick

## 1.0 Site Location and Description

The site is within the coastal settlement of Tragumna c. 8km to the south of Skibbereen in west Cork. The settlement comprises a mix of one off housing and small residential estates, the majority of which appear to be used as holiday/2<sup>nd</sup> homes.

The appeal site, which has a stated area of c 0.20 hectares, is accessed via a driveway serving a dwelling bounding the site to the north. The said dwelling is elevated over the site. The driveway is off the Carraig na Tragma housing estate road. A dormer dwelling immediately bounds the site to the west with its boundary delineated by a timber post and rail fence.

The dwelling constructed on the site is of wood construction with a small timber decking area adjoining.

## 2.0 Proposed Development

Retention permission is sought for the erection of a 37 sq.m. single storey dwelling connected into the existing septic tank located to the south.

As per the public notices the dwelling is proposed for short/long term letting purposes.

The details accompanying the application state that the original beach hut was on the site for a significant period of time.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse retention permission for the above described development for 3 reasons which can be summarised as follows:

1. The proposed retention does not constitute a conversion but the erection of a new unauthorised dwelling that relates unsatisfactorily to the immediate area and has an incongruous design with discordant materials. It would set an undesirable precedent. The proposal would devalue the intrinsic quality of

Tragumna village and would contravene materially county development plan objectives GI 6-1 and GI 7-2 which seek to protect the visual and scenic amenities of the area.

2. The proposal would contravene materially county development plan objectives GI 13-1 and GI 13-2 to minimise noise and light pollution in that the general noise and light disturbance, coupled with the normal holiday letting activities on the site and associated parking of vehicles in close proximity to an existing dwelling, would be significantly obtrusive.
3. In the absence of adequate information on the wastewater treatment system and proximity to Lough Hyne and Environs SAC the planning authority is not satisfied that the proposal would not constitute an unacceptable risk of pollution of ground and surface waters. Given the shortcomings the PA is unable to complete a Habitats Directive Screening conclusion.

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

#### **3.2.1. Planning Reports**

The Executive Planner sets out the planning history on the site. The lawful use rights of the former dwelling have long expired. The small innocuous shed like structure previously on the site was accurately described as a shack and has not been lived in for a very long period of time. The previous historic residential use was clearly 'abandoned' many years ago. Thus, having established that this is not a replacement dwelling but a new dwelling for letting purposes puts a different perspective on all matters. The appearance of the wooden dwelling house is out of keeping with the character of other buildings and dwellings in the vicinity. There is no private amenity area and it impacts negatively on the amenity and privacy of the adjoining dwelling. The wastewater treatment system should be compliant with EPA standards. There is no record of permission being granted for the system. It is not possible to conclude that its use will not have a negative and detrimental impact on water quality. AA issues therefore arise. The issues raised regarding encroachment onto 3<sup>rd</sup> party lands raised in the objection noted. A refusal of retention permission for 3 reasons recommended.

Senior Planner concurs with the recommendation.

### 3.2.2. Other Technical Reports

Area Engineer has no objection subject to conditions.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

An objection to the proposal received by the planning authority raised issues relating to encroachment on 3<sup>rd</sup> party lands, proximity to existing dwelling, adequacy of and wayleave to septic tank.

## 4.0 Planning History

The planning history on the site and adjoining lands is set out in the Executive Planner's report.

00/2030 – permission granted to demolish chalet and relocate access road.

10/560 – the applicant was granted permission for a dwelling on a site to the south of the appeal site.

## 5.0 Policy and Context

### 5.1. Development Plan

#### 5.1.1. *Cork County Development Plan 2014*

##### Landscape

The site is located within an area designated 'High Value Landscape'

##### Scenic Routes

The public road to the south-west of the site forms part of a designated scenic route.

Objectives include:

GI 7-2: Scenic Routes

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects.

### Rural, Coastal and Islands Holiday Home and Second Home Development

#### RCI 7-2: Holiday Home Accommodation

Encourage appropriately scaled holiday home development to locate within existing settlements, where there is appropriate infrastructure provision, where they can contribute to the maintenance of essential rural services and help act as a revitalising force in counteracting population decline.

### Effluent Disposal

RCI 6-2 – ensure that proposals for development incorporating septic tanks or proprietary treatment systems comply with the EPA Code of Practice: Wastewater Treatment and Disposal Systems serving Single Houses, or any requirements as may be amended.

GI 13-1 Minimise noise pollution

GI 13-2 Minimise light pollution

#### 5.1.2. ***West Cork Municipal District Local Area Plan 2017***

The site is within the development boundary of Tragumna.

Tragumna Objectives include the following:

DB-01 Encourage development to be compatible with existing development and in particular, to be consistent with the vernacular architecture and scale of the holiday resort. The resort is located in a high value landscape area and all new development should take this into consideration.

DB-02 Protect and enhance the attractive coastal setting and landscape character of the settlement.

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

Lough Hyne Nature Reserve and Environs SAC (site code 00097) is c. 150 metres to the south-west.

Sheep's Head to Toe Head SPA (site code 004156) is c. 80 metres to the west.

### **5.3. Environmental Impact Assessment**

Having regard to the nature and extent of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an 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**

The submission by Payne Planning and Associates on behalf of the applicant against the planning authority's notification of decision to refuse permission can be summarised as follows:

- The development description was as required by the planning authority. The works constitute the renovation and minor alterations to an existing dwelling only.
- The chalet known as Wolfe's Hut has been on the site for over 80 years. It is served by an existing septic tank and percolation area. It predates the dwellings in the vicinity. The chalet has been in family ownership for generations with the applicant's father buying out the other interests in 1992. The chalet continued to be used as holiday accommodation intermittently over the intervening years. It was never the intention to abandon the existing residential use. Reference to a chalet or shack is irrelevant as the definition of both include reference to a dwelling.
- The adjoining dwelling was constructed in the last 20 years in full knowledge of the adjoining chalet.
- During refurbishment works the external envelope and majority of the structural elements were found to be rotten and had to be replaced thus necessitating its full renovation.

- The overall footprint remains in the same position. To improve the residential amenity of the adjoining dwelling the window on the western elevation was removed and the front door relocated to the eastern elevation.
- The current layout may result in some minor light disturbance from parking vehicles into the ground floor bedrooms of the adjoining dwelling. A 1.8 metre high fence is proposed to address this issue.
- It is now proposed for long term letting. Noise would not be an issue.
- The renovation is considered to be in keeping with the original external design with timber clad finish and grey corrugated powder coated finish to the roof. It has resulted in a dilapidated building becoming more appealing and should be welcomed.
- It will not result in the degradation of the character of views and prospects on the adjoining scenic route. The site is tucked away behind the neighbouring house to the west. It is barely/intermittently visible from the road. Landscaping plan provided.
- The Board permitted a structure of a similar size and design c. 80 metres to the south-east under ref. ABP 300708-18. There are two other chalet type structures in Tragumna.
- There has been a septic tank on the site for a long period of time. The renovated dwelling will not result in an increase in loading. It contains one bedroom which would equate to a maximum population of 2. The Area Engineer did not raise any issues in his report. Engineer's report submitted in support.
- Having regard to the nature and scale of the development, the fact that the existing septic tank predates all relevant legislation on same, the site location outside of any designated site, the limited ecological value of the lands in question and the separation distances, the proposal is unlikely to have any significant effect on any designated site. The information is adequate in order to issue a screening determination.
- Should the Board require a new wastewater treatment system this could be conditioned and agreed with the Council through compliance.

## 6.2. Planning Authority Response

The response can be summarised as follows:

- The demolished chalet did not have any lawful use rights as a dwelling house. Whilst it may have been used as a permanent home in 1941 it was not used as such in 2009 or 2019. The planning history on the site seeking the demolition of the shack suggests the owner's intentions.
- The four tests of abandonment should be referred to and it is concluded that no reasonable person would have suggested that the chalet in 2019 was still a lawful dwelling. Reference to its use for storage adds further weight to the fact that the proposal is not a replacement dwelling.
- The septic tank in situ is not fit for purpose. No information has been provided that it has been registered. Seeking to condition the matter is unacceptable since a screening conclusion and impact on the SAC cannot be reached, whilst the neighbour has a right to know where it would be located.

## 6.3. Observations

None

## 6.4. Section 131 Notice

Due to the proximity of the site to Lough Hyne Nature Reserve and Environs SAC certain prescribed bodies were invited to make a submission on the appeal.

No responses received.

## 7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Nature and Extent of Development
- Compliance with Development Standards
- Other Issues



## 7.1. Nature and Extent of Development

The substance of the 1<sup>st</sup> party appeal is premised on the contention that the proposed works for which retention permission is sought effectively entails the renovation and minor alterations to an existing dwelling, only, and not the retention of a replacement dwelling as set out in the public notices. It is contended that it is in this context that the appeal should be assessed.

As referenced in the last paragraph of the document titled 'Wolfe's Hut – Brief History' which accompanies the appeal the author states that the hut needed substantial work in recent years. This is tacitly acknowledged by the applicant in that in carrying out the works the majority of the structural elements and the external envelope were rotten and had to be replaced. I note that the replacement structure with a gross floorspace of 41 sq.m. is larger than the original chalet which had a gross floorspace of approx. 30.5 sq.m. The finishes are materially different with the ridge height increased from 3.5 to 4.2 metres.

On this basis, therefore, to reference the works as renovation is somewhat disingenuous and I would submit that the nature and extent of the description as given in the public notices would more accurately describe what has occurred, namely retention of a dwelling, albeit on the footprint of a previous chalet.

Whilst I accept that there has been a chalet on the site for a significant period of time and notwithstanding the details given as to its historical use for residential and holiday home use, I do not consider that sufficient evidence has been provided to support claims that it has been used for such purposes in the last 30 years. This is somewhat corroborated by the statement in the brief history where reference is made to its use for storage purposes in the 1980s. No details are given as to occupation of the chalet consequent to such use. I also note that the structure was described as 'dilapidated' in the grounds of appeal. This infers a structure that was in state of disrepair or ruin as a result of age or neglect (Oxford English Dictionary definition).

On this basis, I submit it is reasonable to conclude that the use of the chalet for residential purposes had been abandoned. I therefore consider that the dwelling to be retained should be assessed from first principles.

## 7.2. Compliance with Development Standards

Save for the more recent residential development to the north-east of the site the development pattern within the village has been somewhat organic and entails an-hoc housing layout which is synonymous with such a coastal location. Objective RCI 7-2 of the current County Development Plan allows for consideration of appropriately scaled holiday home development in existing settlements where there is appropriate infrastructure provision and where they can contribute to the maintenance of essential rural services and assist in counteracting population decline. In that context the proposal is acceptable in principle. However, this cannot override the need to ensure an appropriate standard of development, the protection of the amenities of adjoining property and appropriate servicing. In this regard I note the following:

- Whilst there are no minimum requirements in terms of floorspace for dwelling units I note that the dwelling falls below the minimum 45 sqm. requirement for 1 bedroom apartment units as set out in the Guidelines for Planning Authorities on the Design Standards for New Apartments.
- The dwelling is within 2 metres of the boundary with the dwelling to the west. No windows are proposed in the western elevation with boundary and landscaping plans provided to assist in screening the development from same and to counteract any light pollution from car manoeuvres. The necessity to undertake such mitigation measures so as to protect the privacy and amenities of the adjoining property point to what is effectively an unsatisfactory layout arrangement. Whilst I accept that the chalet originally on the site predates much, if not all the development in the vicinity as detailed above, it does not appear to have been occupied in any reasonable sense for a significant period of time. I submit that the layout and arrangement cannot now be considered to be compatible with existing development as advocated in objective DB-01 of the West Cork Municipal District Local Area Plan.
- A small decking area, only, is provided in terms of amenity space.
- It is proposed to use the original septic tank and percolation area. Whilst it is argued that the loading would be no different from that arising from the original chalet this, in my opinion, is not an acceptable approach.

Notwithstanding the expected occupancy, the proposal in bringing the accommodation up to modern standards, will inevitably give rise to increased effluent over that which was historically the case. Such an application must be accompanied by relevant details of either the adequacy of the existing system to accommodate the development or proposals for the installation of an appropriate system to relevant standards. The proposal to address this matter at a later date is not sufficient. On this basis the Board cannot be satisfied that effluent can be adequately treated and disposed of so as not to give rise to public health concerns. I would also submit that this failure to address the issue is contrary to current development plan requirements with respect to the ability to provide for adequate wastewater disposal arrangements as set out in objective RCI 6-2.

### 7.3. Other Issues

#### *Visual Impact*

By reason of the dwelling setback and in the context of the existing development in the vicinity I do not consider that it adversely impacts on views along the scenic route to the west. As noted by the agent for the applicant it is reasonable to suggest that the protected view is that of the coast and beach to the west.

#### *Precedent*

The applicant makes specific reference to a Board decision under ref. ABP 300780-18 contending that it is comparable to the subject case. I would not concur. In that instance the proposal was for alteration and change of use of an ancillary storehouse to a guest annex beside an existing dwelling c. 80 metres to the south of the subject site. It did not comprise a separate stand-alone dwelling unit as is the case in this instance.

I note the other examples of chalets within the village which have been modified and/or extended, however their context and relationship relative to other dwellings is not comparable to the subject case.

#### *Appropriate Assessment*

Having regard to nature and extent of the development and separation distance from the Lough Hyne Nature Reserve and Environs SAC (site code 00097) and Sheep's

Head to Toe Head SPA (site code 004156) with the local road and Trag Beach in the intervening distance, 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 the European sites.

## **8.0 Recommendation**

Having regard to the foregoing I recommend that retention permission for the above described development be refused for the following reasons and considerations

## **9.0 Reasons and Considerations**

1. Having regard to the planning history of the site, the pattern of development in the vicinity, to the size and design of the dwelling to be retained and to the relevant provisions of the Cork County Development Plan and West Cork Municipal District Local Area Plan it is considered that the proposed development would seriously injure the residential amenities of adjoining property arising from undue proximity and would detract from the character of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the nature and extent of the dwelling to be retained the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal that effluent from the development can be satisfactorily treated and disposed of on site. The proposed development would, therefore, be prejudicial to public health

---

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

**March, 2020**