



An
Bord
Pleanála

Inspector's Report ABP-306217-19.

Development	Permission to construct a granny flat to existing house.
Location	Gorteenakilla, Newtown, Nenagh.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	19/600264.
Applicant(s)	Mary Kenny.
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions.
Type of Appeal	Third Party
Appellant(s)	Mary McCarthy.
Observer(s)	None.
Date of Site Inspection	19/02/2020.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The site is located approximately 3.5km to the west of the town of Nenagh, and approximately 1.2km to the south east of Newtown. Access to the site is over the local road, the L60654 and is in the rural townland of Gorteenakilla. The site is located to the south east of a ribbon of three houses.
- 1.2. The existing house on the site was permitted under PA reg ref 10/510197 and comprises a dormer style house with accommodation provided over two floors. The existing house rises to an overall height of 6.825m and comprises a four bedroom house with three at first floor level, and a ground floor which provides for a kitchen / dining room, utility, WC, a living room and a fourth bedroom. The existing house has a permitted floor area of 149m².
- 1.3. The site has a stated area of 0.245ha and includes two outbuildings, a garage with a floor area of 44m² which was constructed as part of the original house development, and a second shed, with a floor area of 21.5m².
- 1.4. The existing adjacent houses comprise small single storey traditional homes, with modest floor areas.

2.0 Proposed Development

- 2.1. Permission is sought to construct a granny flat to existing house at Gorteenakilla, Newtown, Nenagh, Co. The application was accompanied by a cover letter which advised that the applicant was aged 89 years and was unable to live independently. She was in need of a larger bedroom with disabled shower area, toilet and her own living area and kitchen while members of her family moved into the main house to live with her.
- 2.2. The development initially proposed a single storey extension to the north west of the existing house which would comprise a large master bedroom suite, a separate kitchen / diner and utility room, a separate shower room with WC and a large living room. A shared area between the existing and the proposed house proposes a WC while amendments are also proposed to the existing house. The existing ground floor bedroom has been replaced to provide a sitting room while the three first floor

bedrooms are to be amalgamated to provide two large ensuite bedrooms with walk-in wardrobes. The proposed floor area of the granny flat initially proposed is 135m².

- 2.3. Following a request for further information, the scale of the proposed granny flat was reduced to 114m². The overall length of the granny flat was also reduced.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the development subject to 7 conditions.

Condition 2 of the decision to grant permission sought amendments to the revised design and states as follows:

Prior to the commencement of development, the applicant shall submit revised plans to be agreed in writing with the Planning Authority showing (a) the omission of the front gable serving the living room and replacement with a roof/eave line respecting the proposed extension and (b) replace window in living room with two windows as per those of the master bedroom.

Reason: In the interest of visual amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes screening for Appropriate Assessment and EIA. The initial report raised concerns in terms of the design and scale of the extension proposed and recommended that a revised design was sought by way of further information. In addition, the report raised concerns in terms of the existing septic tank and percolation area and surface water issues.

Following a request for further information, the Planning Officer considered that the amended development was more acceptable but required further alterations to

simplify the front elevation when viewed from the public road. The report concludes that the alterations could be dealt with by way of condition and recommends that planning permission should be granted subject to conditions. This report formed the basis of the PAs decision to grant permission for the development, subject to 7 conditions.

3.2.2. **Other Technical Reports**

None.

3.2.3. **Prescribed Bodies**

None.

3.2.4. **Third Party Submissions**

Mrs. Mary McCarthy: Mrs. McCarthy objects to the proposed development as follows:

- The size and scale of the proposed extension for use as a granny flat is almost 1.5 times the area of the ground floor of the existing house.
- The development would constitute overdevelopment of the site.
- The extension will be located 3.2m from the site boundary and when taken together with the existing house will be overbearing and would not reflect the character and scale of existing houses in the area.
- The scale, layout and design of the extension would contravene the requirements of Section 10.11.7 (Domestic Extensions) and Section 10.11.8 (Provisions of Ancillary Family Accommodation) of the North Tipperary County Development Plan.
- Issues raised regarding the capacity of the WWTP given the increase in the number of bedrooms.
- Concerns raised in relation to the potential for flooding given that the objectors home is below the road level and has been subject to periodic flooding from storm water during heaving rainfall.
- A question is raised regarding compliance with Condition 4 of the original grant of planning permission for the house which states that all surface water run-off from the public road which flows into the site

shall continue to be accommodated within the site unless alternative arrangements acceptable to the Planning Authority are carried out.

Following the submission of the response to the further information request, the objector made a further submission to the PA. The submission restates the concerns initially raised and considers that the proposed amendments are inadequate.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref. 10/510197: Permission granted for a dormer style house, domestic garage, proprietary treatment sewage system, entrance and all ancillary site works.

PA ref. 18/600661: Permission granted to retain and complete storage shed to the rear of the property and to retain site boundaries as constructed. Development previously granted under planning reference 10/510197

TUD-13-053: Relates to non-compliance with planning permission.

TUD-17-146: Relates to the unauthorised garage.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The North Tipperary County Development Plan 2010, as extended, is the relevant policy document relating to the subject site. Chapter 10 of the Plan deals with Development Management Standards with Section 10.11.7 of the Plan dealing with Domestic Extensions and Section 10.11.8 dealing with Provision for Ancillary Family Accommodation.

5.1.2. Section 10.11.7 Domestic Extensions states as follows:

The Council will seek to implement the following guidelines in respect of extensions.

- a) A ground level extension shall be subordinate to the main dwelling in scale and design.

- b) The extension shall integrate with the primary dwelling, following window proportions, detailing and finishes, including texture, materials and colour;
- c) The design and layout of extensions to houses shall have regard to the amenities of adjoining properties. The Council may require the submission of a daylight, sunlight and overshadowing assessment, if considered necessary.
- d) Where a dwelling is served by an on-site waste water treatment system and where the extension increases the potential occupancy of the dwelling, the applicant shall demonstrate that the system complies with the standards of the EPA Code of Practice 2009 (or any amendment thereof), see section 10.10.2 for standards.

5.1.3. Section 10.11.8 Provision for Ancillary Family Accommodation states as follows

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

Proposals for such development will be required to meet the following design requirements:

- a) There shall be direct internal access to the principle dwelling and the flat shall not form a permanent separate self-contained unit from the principle dwelling.
- b) There shall be no subdivision of the garden or entrance.
- c) The design should ensure that the flat forms an integral part of the main dwelling unit capable of integration for single domestic use when no longer required.
- d) The flat shall form part of the main dwelling when no longer required and shall not be sold or leased separately.

5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Lough Derg (Shannon) SPA (Site Code 004058) & pNHA Lough Derg, Site Code 000011, which is located approximately 2.6km to the north west of the site.

5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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 at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed granny flat development. The issues raised in the appeal reflect those issues raised during the PAs assessment of the proposed development and are summarised as follows:

- The previous concerns raised have not been taken into consideration by the PA to comply with the CDP particularly with regard to the size, scale and layout for a granny flat to accommodate 1 person.
- The applicant has sadly deceased since the decision to grant issued and it is contended that there is now no requirement for the extension proposed.

It is requested that the Board refuse permission for the development as proposed. The appeal includes a number of enclosures.

6.2. First Party Response to Third Party Appeal

The Board will note that the son of the applicant (deceased) submitted a response to the third party appeal. It is submitted that Mr. Kenny is now the owner of the property and lives in the house with his family.

In terms of the proposed development, it is submitted that the proposed development is still required as Mr. Kennys partner has developed a chronic illness and needs ongoing help on a daily basis, as does her son who has serious mobility issues who requires a ground floor bedroom and living space.

It is requested that the Board grant permission for the extension which is needed as a matter of urgency.

6.3. **Planning Authority Response**

The Planning Authority has not submitted a response to the third-party appeal.

6.4. **Observations**

None.

7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development, the planning history associated with the site and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of Development & Compliance with the Development Management Standards
2. Other Issues
3. Appropriate Assessment

7.1. **Principle of Development & Compliance with the Development Management Standards:**

- 7.1.1. The subject appeal site is located in a rural area of Co. Tipperary and within 4.5km of the town of Nenagh. There is an existing dormer style house on the site and it is proposed to construct a granny flat extension to the house to accommodate a separate, but attached, living space for the applicant. The Board will note that since the lodging of the application and the appeal, Mrs. Kenny has since passed away, RIP. In this context, the Board will note that the proposed extension, is indicated as being now needed to accommodate Mrs. Kennys grandson, as her son and his family have moved into the house. Mrs. Kennys grandson has mobility issues and in

response to the third party appeal, Mr. Kenny, Mrs. Kennys son and now owner of the property, submitted that his requires a ground floor living and bedroom space. From the information submitted, Mr. Kennys son is approximately 15 years old. It is also submitted that Mr. Kennys partner has a number of chronic illnesses.

- 7.1.2. The existing house on the site currently comprises a 4 bedroomed house – 3 at first floor level and 1 at ground floor level, and the proposed development, if permitted, will alter the existing layout to provide for two large double en-suite bedrooms at first floor level, with the loss of one bedroom. It is further proposed that the existing ground floor bedroom will be changed to a sitting room. The existing house has a stated floor area of 149m² while the original proposed granny flat extension had a floor area of 135m². The amended proposal provides for a floor area of 114m². In the context of the proposed development, I would not consider it appropriate to approve the original design given the significant size and scale proposed.
- 7.1.3. The North Tipperary County Development Plan 2010, as extended, is the relevant policy document relating to the subject site. Chapter 10 of the Plan deals with Development Management Standards with Section 10.11.7 of the Plan dealing with Domestic Extensions and Section 10.11.8 dealing with Provision for Ancillary Family Accommodation.
- 7.1.4. In terms of Domestic Extensions, the Plan provides that the Council will seek to implement the following guidelines in respect of extensions.
- a) A ground level extension shall be subordinate to the main dwelling in scale and design:
- In terms of the proposed development, I have serious reservations regarding the overall scale and design of the proposed extension. I also would question the need for such a large space given the circumstances are presented in the response to the third-party appeal. Certainly, I would have no objection to the provision of an additional space to the side of the house to accommodate the needs of the family, but the development as proposed represents a significant extension which could not be considered as subordinate to the main dwelling. The footprint of the proposed extension exceeds that of the primary house and in my opinion, is unacceptable.

b) The extension shall integrate with the primary dwelling, following window proportions, detailing and finishes, including texture, materials and colour;
The proposed extension generally seeks to follow the detailing and finishes associated with the primary house. I would concur with the Planning Authority however in relation to the proposed projecting bay window associated with the proposed additional living room.

c) The design and layout of extensions to houses shall have regard to the amenities of adjoining properties. The Council may require the submission of a daylight, sunlight and overshadowing assessment, if considered necessary:
Having regard to the location of the proposed development, together with the separation distances available between the proposed extension and the site boundary, I am satisfied that the development, if permitted, will not impact on the amenities of the adjoining property in terms of daylight, sunlight or overshadowing. I would, however, be concerned that the development would result in an overbearing development on the adjoining house, in particular given the proposed roof structure when viewed from the north west.

d) Where a dwelling is served by an on-site waste water treatment system and where the extension increases the potential occupancy of the dwelling, the applicant shall demonstrate that the system complies with the standards of the EPA Code of Practice 2009 (or any amendment thereof), see section 10.10.2 for standards:

The third-party submits that the original house as permitted provides for 4 bedrooms and the proposed development would result in that number being increased to 5 bedrooms. The applicant submits that the proposed alterations to the existing house will result in the development of a 3 bedroomed house. It is submitted that the percolation area on the site is above capacity to accommodate the existing dwelling and the proposed extension. Overall, I am satisfied that this is acceptable.

In conclusion, and having regard to the requirements of Section 10.11.7 of the Plan, which deals with Domestic Extensions, I am not satisfied that the proposed extension as amended accords with the stated requirements by reason of the excessive scale, which would not be subordinate to the primary house on the site.

7.1.5. Section 10.11.8 of the North Tipperary County development Plan deals with the Provision for Ancillary Family Accommodation and states as follows

Consideration can be given to building ancillary accommodation either as an extension to an existing house where it can be should that such is required for a family member. Proposals for such development will be required to meet the following design requirements:

a) There shall be direct internal access to the principle dwelling and the flat shall not form a permanent separate self-contained unit from the principle dwelling; The scale of the proposed extension, together with the proposed layout might easily form a separate self-contained unit, but in the context of the above, I am satisfied that the proposed development provides for direct internal access.

b) There shall be no subdivision of the garden or entrance:
The proposed development accords with this requirement.

c) The design should ensure that the flat forms an integral part of the main dwelling unit capable of integration for single domestic use when no longer required;
Again, and in the context of the scale of the proposed extension, together with the proposed layout and provision of a full and separate kitchen / diner, utility and separate living room, all of which compare with the size and scale of the same rooms in the main house, I have concerns in terms of the proposed development.

d) The flat shall form part of the main dwelling when no longer required and shall not be sold or leased separately;

I am generally satisfied that this matter might be reasonably dealt with by way of condition of planning permission. However, I again restate my concerns in terms of the overall scale and layout of the development proposed.

7.1.6. While I have no objection in principle to the proposed provision of an extension to the existing house on the site, or indeed, the provision of ancillary family accommodation in the form of a connected flat to accommodate the applicants family, I have serious reservations regarding the scale of the proposal currently before the Board. Given

the proposed floor area of 114m² when compared with the floor area of the existing house, at 149m², I am not satisfied that the design and layout of the proposed extension would be subordinate to the primary dwelling on the site, as it would amount to approximately 85% of the floor area of the existing house. While it may be possible to amend the overall design and scale by way of condition of planning permission, I am not satisfied that it is appropriate in this instance.

7.2. Other Issues

7.2.1. Water Services

The Board will note that the third party raised concerns with regard to flooding of her property. The Board will note that Mrs. McCarthy makes reference to condition 4(a) of the original grant of planning permission for the primary house on the site, PA ref 10/510197 refers, and submits that it appears that the pipe installed to take water from the public road away from the appellants property has been blocked contrary to the requirements of said condition.

I note that the site does not lie within any flood risk area and matters of non-compliance with conditions of planning permission are a matter for the Local Authority and are outside the remit of the Board.

7.2.2. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.3. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Lough Derg (Shannon) SPA (Site Code 004058) & pNHA Lough Derg, Site Code 000011, which is located approximately 2.6km to the north west of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to

adjoining Natura 2000 sites. It is also not considered that the 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

While I have no objections in principle to the provision of an extension or ancillary accommodation for the family at this location, I do not consider that the scale and layout of the proposed granny flat adequately accords with the requirements of the North Tipperary County Development Plan, 2010, as extended, as it relates to the provision of such extensions. I recommend that planning permission be refused for the proposed development for the following stated.

9.0 Reasons and Considerations

The proposed development by virtue of its scale, design and layout would have a seriously adverse impact on the scale and character of, and would not be subordinate to, the existing primary dwelling on the site. The development would, therefore, be contrary to Section 10.11.7 Domestic Extensions and Section 10.11.8 Provision for Ancillary Family Accommodation of the North Tipperary County Development Plan 2010, as extended, and, consequently, to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

24th March, 2020