



An
Bord
Pleanála

Inspector's Report

ABP-306510-20

Development	Retention of existing granny flat
Location	Boderan, Killesk, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20191488
Applicant(s)	Brendan Stamp
Type of Application	Retention Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Brendan Stamp
Observer(s)	None
Date of Site Inspection	30 th April 2020
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations	6
5.3. EIA Screening	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Planning Authority Response	7
6.3. Observations	8
6.4. Further Responses.....	8
7.0 Assessment	8
8.0 Recommendation.....	9
9.0 Reasons and Considerations.....	9

1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.2329 ha is located along a county road in the townland of Boderan, approx. 1.4km northeast of Ramsgrange. There is a dormer - style two-storey detached dwelling on site with a detached two-storey “granny flat” adjacent. 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

2.1.1. Permission is sought for the retention of an existing storey and a half one bedroom granny flat (72 sqm) ancillary to the existing dwelling house. The application was accompanied by a letter from the landowner giving consent to the applicant to make a planning application and a cover letter setting out the following:

- A previous planning application (Reg Ref 20191149) was refused as it did not comply with Section 18.13.3 of the County Development Plan.
- The planning application is being resubmitted as the purchaser requires the granny flat for their elderly mother.
- The dwelling house has 3 bedrooms (5 persons) and the granny flat has 1 bedroom (2 persons); 7 persons in total. The dwelling house originally had 4 bedrooms but bedroom no 1 was converted into a games / living room.
- The Doran Treatment System has a capacity for 10 persons and 48 linear meters of piping were installed in the percolation bed which has a capacity for 8 persons. Stated that the site has the capacity to deal with the 7 persons effluent loadings.

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:

It is the policy of the Council, as clearly expressed in Section 18.13.3 of the Wexford County Development Plan 2013 – 2019, to consider the provision of a

self-contained residential unit for use by a family member where the need for such a unit has been clearly demonstrated, and where justification for a detached unit is provided. The subject application has failed to demonstrate compliance with the requirements of Section 18.13.3 of the Wexford County Development Plan 2013 – 2019, by reason of a lack of justification of the need for a detached self-contained residential unit at this location. The development is therefore considered to be contrary to the proper planning and sustainable development of the area, and if permitted, would set an undesirable precedent for further development of this nature that is considered inappropriate and injurious to the amenities and character of the rural.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The **Case Planner** in their report are concerned that the applicant has failed to provide justification as to why a detached unit is required on site and that granting permission would facilitate its use for self-catering purposes. It was recommended that permission be refused. The notification of decision to refuse permission issued by Wexford County Council reflects this recommendation.

3.2.3. Other Technical Reports

- **Chief Fire Officer** – No stated planning objection.
- **Environment Section** – Recommended a grant subject to the existing WWTS being maintained according to the manufacturers specifications and the EPA Code of Practise: Wastewater Treatment and Disposal Systems Serving Single Houses

3.3. Prescribed Bodies

3.3.1. There are no reports recorded on the planning 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 location. The following history has been provided with the appeal file as summarised:

- **Reg Ref 20191149** – In October 2019 Wexford County Council refused planning permission for the retention of an existing granny flat ancillary to an existing dwelling house for reasons of non-compliance with Section 18.13.3 of the Development Plan. The wording of the decision is the same as the reason for refusal in this appeal case. No site location map or other details pertaining to this scheme have been made available with the case history
- **Reg Ref 20081603** – In 2008 Wexford County Council granted permission for the retention and completion of changes to dwelling house permitted under Reg Ref 20063249 subject to 1 no condition requiring compliance with plans and particulars submitted and the terms and conditions of Reg Ref 20063249. No site location map or other details pertaining to this scheme have been made available with the case history
- **Reg Ref 20063249** – In 2006 Wexford County Council granted permission for the erection of a fully serviced dwelling house and garage subject to 23 no conditions. Condition No 23 required that *the proposed garage shall not be used for human habitation or for the keeping of pigs, poultry or pigeons, ponies or horses or for any other than a purpose incidental to the enjoyment of the house.* No site location map or other details pertaining to this scheme have been made available with the case history.

5.0 Policy Context

5.1. Development Plan

The operative plan for the area is the Wexford County Development Plan 2013 – 2019. **Section 18.13.3 Self-contained Residential Unit for use by a Family Member** starts that *the Council will consider the provision of self-contained residential unit for occupation by a family member. The self-contained unit should be connected to the main dwelling house and be designed so that it can be incorporated into the main dwelling house when its use as a self-contained unit is no longer required. The Council*

may consider the provision of a detached self-contained unit where the need for such a unit is demonstrated. The Council will require the following:

- *Details of the need/occupant of the unit*
- *Need for a detached unit, where applicable*
- *The unit should not consist of more than a combined kitchen/dining/living area, a WC bathroom and no more than two bedrooms*
- *Vehicular access to the unit shall be shared with the main dwelling house*
- *Private open space shall be shared with the main dwelling house*
- *Required separation distances from wastewater treatment systems shall be achieved.*

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. It is noted that the appeal site is located c3 km to the east of the River Barrow & River Nore SAC.

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 and may be summarised as follows:
- The applicants house and the appeal site house are in the same district where the applicant has lived for 19 years and where their children attend the local school and where the applicant set up their business in 2004.

- The applicant wishes to purchase the house and granny flat. It is submitted that the configuration is ideal as the applicant's elderly mother who has not been in good health currently resides alone and it is the applicants intention that she would live in the granny flat.
- In addition, the applicant works from home and requires office space. The house is not a 5-bedroom house as referenced in the Planners Report. Bedroom 2 as indicated on the selling agents floor plans will be used as the applicant's office.
- The original permission included a condition that the applicant had to reside in the house for 5 years. The vendor has complied with this condition. The granny flat has existed for more than 7 years and it is noted from the Planners report that no enforcement action has been taken by the Council. While unauthorised it cannot be enforced against.
- Section 18.13.3 of the Development Plan sets out the conditions under which a detached self-contained granny flat may be considered as follows:
 - a) The applicants 79-year-old mother, who lives alone and recently suffered ill health would reside in the flat.
 - b) As this is an existing detached unit it cannot be attached to the house.
 - c) The description on the agents brochure as a two bedroom unit is inaccurate. There is one bedroom and a storage room which facilitates the main house.
 - d) Vehicular access to the unit shall be shared with the main dwelling house
 - e) Private open space shall be shared with the main dwelling house
 - f) In relation the WWTS the Environment Section recommends a grant.

6.1.2. The appeal was accompanied by a Homebuyers Report on the appeal dwelling house and granny flat.

6.2. Planning Authority Response

6.2.1. Wexford County Council in their response to the appeal set out the following as summarised:

- There is insufficient justification for a detached self-contained unit for use by a family member at this location

- The Planning Authority will only consider the provision of a detached self-contained unit where the need for such a unit is clearly demonstrated
- The existing granny flat is unauthorised and should revert to its permitted use as a garage

6.3. **Observations**

6.3.1. There are no observations recorded on the planning file.

6.4. **Further Responses**

6.4.1. There are no further responses recorded on the planning file.

7.0 **Assessment**

7.1. This is an application for the retention of an existing granny flat. Wexford County Council issued a notification of decision to refuse permission as the applicant has not demonstrated justification for this self-contained residential unit in line with Section 18.13.3 of the Wexford County Development Plan 2013 – 2019.

7.2. Section 18.13.3, as set out in full in Section 5 above, states that in the first instance the Council will consider the provision of a self-contained residential unit for occupation by a family member where it is connected to the main dwelling house and designed so that it can be incorporated into the main dwelling house when its use as a self-contained unit is no longer required. This is considered to be good planning policy and practise.

7.3. In line with the comments of the Planning Authority the matter of a self-contained detached residential unit would only be considered in exceptional circumstances for example where there may be particular site restrictions. Having regard to the information made available with the appeal file together with my site inspection there are no obvious site restrictions in this case. The change of use of a garage to a self-contained residential unit does not of itself qualify as exceptional circumstance. Refusal is recommended.

7.4. **Appropriate Assessment**

7.4.1. Having regard to the nature and scale of the proposed development 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.

7.5. Other Issues

7.5.1. **Development Contributions** – Wexford County Council has adopted a Development Contribution scheme; Wexford County Council Planning Authority Area Development Contribution Scheme 2018, under Section 48 of the Planning and Development Act 2000 (as amended). I have considered the sections entitled “Exemptions” where it states that “*no exemptions shall apply to any applications for retention of development*”. Accordingly, it is 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 **REFUSED** subject to the reasons and considerations set out below

9.0 Reasons and Considerations

1. It is the policy of the Council, as set out in Section 18.13.3 of the Wexford County Development Plan 2013 – 2019, to *consider the provision of a detached self-contained unit where the need for such a unit is demonstrated*. This policy is considered reasonable. The applicant has failed to demonstrate compliance with the requirements of Section 18.13.3 of the Wexford County Development Plan 2013 – 2019, by reason of a lack of justification of the need for a detached self-contained residential unit at this location. The development is therefore considered to be contrary to the proper planning and sustainable development of the area, and if permitted, would set an undesirable precedent for further development of this nature that is considered inappropriate and injurious to the amenities and character of the rural.

Mary Crowley

Senior Planning Inspector

28th May 2020