



An  
Bord  
Pleanála

## Inspector's Report ABP307963-20

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<b>Development</b>	Retain outbuilding as granny flat.
<b>Location</b>	Barchuillia Commons, Kilmacmanogue, County Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	20/515
<b>Applicant(s)</b>	Mary Coughlan
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Mary Coughlan
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	December 2020.
<b>Inspector</b>	Hugh Mannion

## 1.0 Site Location and Description

- 1.1. The site is a long rectangle running north to south at Barchuillia Commons, Kilmacanogue, County Wicklow. The site is 0.9ha and accommodates an existing permitted house served by a private well and proprietary treatment system with a percolation area. Ground levels are varied within the site and the site is raised above the adjoining road level. The independent living unit/granny flat and a storage shed are located towards the northern end of the site and have a separate access onto the access lane to that serving the permitted house. The independent living unit/granny flat is accommodated in an area where the site has been dug out and levelled for that purpose. There is furze along the site boundaries and in the area between the proposed independent living unit/granny flat and the permitted house.
- 1.2. The site and the general area comprise an upland area on the western slopes of the Little Sugarloaf Mountain. The area is accessed from the roundabout off the N11 in Kilmacanogue. The access lane is off a county level road and is deeply rutted and unmetalled in the vicinity of the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises retention of a domestic outbuilding to use as an independent living unit/granny flat connected to an existing DWWTS and other services at Barchuillia Commons, Kilmacanogue, County Wicklow.

## 3.0 Planning Authority Decision

### 3.1. Decision – Refuse Permission

- The proposed development is a separate standalone house which comprises sporadic rural development that contravenes the settlement strategy set out in the Wicklow County Development Plan.
- The proposed development will endanger public safety by reason of traffic hazard because it will give rise to surface water runoff onto the access laneway, the inadequacy of the sightline distances at the site entrance and the poor road network in the area.

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

#### 3.2.1. Planning Reports

The planner's report recommended refusal as set out in the manager's order.

#### 3.2.2. Other Technical Reports

The **Engineer's Report** stated that the access road was unsuitable to serve the development, is heavily rutted and surface water flows off the adjoining lands onto the road.

The DWWTS serving both dwellings is dependent on a power supply and is not a sustainable form of wastewater treatment. It is unclear if the well on site provides a sufficiently high standard of potable water.

The **Environmental Health Officer** sought additional information in relation to the size of the percolation area relative to the proposed number of bedrooms.

## 4.0 **Planning History**

Reference 09/991 in which current applicant was granted planning permission for a bungalow now constructed.

Reference 09/1103 where permission was granted for an extension to that bungalow to the same applicant.

## 5.0 **Policy and Context**

### 5.1. **Development Plan**

5.2. The Wicklow County Development Plan 2016-2022 is the relevant Development Plan for the area.

5.3. Chapter 3 of the County Development Plan sets out a settlement strategy where Kilmurry/Kilmacanogue is designated a rural cluster. Among the objectives set out in the plan in relation to the settlement strategy are;

**SS4** To require new housing development to locate on designated housing land within the boundaries of settlements, in accordance with the development policies for the settlement.

**SS7** To strengthen the established structure of villages and smaller settlements both to support local economies and to accommodate additional population in a way that supports the viability of local infrastructure, businesses and services, such as schools and water services.

5.4. In relation to granny flats/independent living units Appendix 1 to the Plan states that;

5.5. A 'granny flat' or 'independent living unit' is a separate living unit on an existing house site, used to accommodate a member of the immediate family, often an elderly parent, for a temporary period. The construction or conversion of part of an existing dwelling into a 'family flat' will only be permitted where the development complies with the following requirements:

- The need for the unit has been justified and is for the use of a close family member;
- The unit forms an integrated part of the structure of the main house – in exceptional circumstances, the conversion of an existing detached garage / store etc may be considered subject to the structure being in very close proximity to the main house;
- The unit is modest in size and in particular, it shall not exceed 45sqm and shall not have more than 1 bedroom;
- The unit shall not be sold or let as an independent living unit and the existing garden shall not be sub-divided;
- The structure must be capable of being functionally re-integrated into the main house when its usefulness has ceased. Permission for such units shall be restricted to a period of 7 years, after which it must revert to a use ancillary to the main house (e.g. garage, store, hobby room) unless permission has been secured for its continuation as an independent unit for another period.

5.6. **Objective WI7** Permission will be considered for private wastewater treatment plants for single rural houses where:

- the specific ground conditions have been shown to be suitable for the construction of a treatment plant and any associated percolation area;
- the system will not give rise to unacceptable adverse impacts on ground waters / aquifers and the type of treatment proposed has been drawn up in

accordance with the appropriate groundwater protection response set out in the Wicklow Groundwater Protection Scheme (2003);

- the proposed method of treatment and disposal complies with Wicklow County Council's Policy for Wastewater Treatment & Disposal Systems for Single Houses (PE ≤ 10) and the Environmental Protection Agency "Wastewater Treatment Manuals"; and
- in all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitively demonstrate that the proposed development will not have an adverse impact on water quality standards and requirements set out in EU and national legislation and guidance documents.

5.7. **Objective WI8** Private wastewater treatment plants for multi-house developments will not be permitted.

#### 5.8. **Natural Heritage Designations**

Not relevant.

#### 5.9. **EIA Screening**

Having regard to the modest scale of the proposed development and the likely emissions therefore it is considered that no significant environmental impacts will arise and that the necessity for EIA can be excluded.

### 6.0 **The Appeal**

#### 6.1. **Grounds of Appeal**

- This is a granny flat associated with the applicant's main house on site.
- The County Development Plan recognises the need for independent living units for family members. The building/use meets the criteria set out in the Plan in that it would be occupied by members of the applicant's family, the outhouse is very close to the main house on site, the floor area only slightly exceeds the acceptable 45m<sup>2</sup> set out in the County Development Plan.

- The outhouse/granny flat is not visible from the access lane.
- A condition restricting the use of the building to members of the applicant's family for 7 years would be acceptable.
- Wastewater will be treated by the existing system on site.
- No additional surface water will enter the access lane.

## 6.2. **Planning Authority Response**

- No submission.

## 6.3. **Observations**

- No observations.

## 7.0 **Assessment**

### 7.1. **Background**

7.2. The original house on site was granted planning permission in 1999, constructed and extended under a further planning permission granted in 2009. This extended house is about 60m to the southeast of the outhouse/granny flat proposed for retention. The application site within the red boundary line accommodates the main house permitted under the 1999 permission, the granny flat/outbuilding and a third structure comprising store/stable and tack room. This third structure is not mentioned in public notices but is shown on the lodged plans as to be retained.

### 7.3. **Policy Context**

The County Development Plan sets out a settlement hierarchy for the county wherein the village of Kilmurry/Kilmacanogue, the village closest to the application site, is designated a rural cluster. It is an objective of the planning authority to strengthen the established structure of villages and smaller settlements both to support local economies and to accommodate additional population in a way that supports the viability of local infrastructure, businesses and services, such as schools and water services.

- 7.4. The applicant makes the case that this structure should be considered a granny flat for the purposes of the development management assessment criteria set out in Appendix 1 of the Plan. The appeal states that the proposed development would facilitate family members and that a condition confining occupation of the dwelling to family members would meet the criteria set out in the Plan.
- 7.5. The general objective of the section of the Plan allowing for granny flats/independent living units envisages structures integrated as part of the main houses on site, not more than 45m<sup>2</sup> to be occupied generally by an elderly parent for a temporary period. In the present case the structure is free-standing about 60m from the permitted house on site is 60m<sup>2</sup>, and provides living room/kitchen/dining, a bedroom, a storeroom, studio and bedroom. Having regard to these factors I conclude that this is a separate dwelling house which does not come within the scope of independent living unit/granny flat as provided for in the County Development Plan.
- 7.6. I recommend that the proposed development be refused permission for comprising sporadic housing development in contravention of the settlement strategy set out in the Wicklow County Development Plan.
- 7.7. **Road Safety**
- 7.8. The planning authority's reason for refusal states that the proposed development will endanger public safety by reason of traffic because the application does not demonstrate that appropriate sightlines are available at the entrance, that surface water will drain off the site exacerbating the deficiency in an already substandard access lane and the road network in the area is inadequate to accommodate additional traffic.
- 7.9. The site is located between the N11 and the Little Sugarloaf Mountain on terrain that generally falls east to west towards the N11. Initially access is over a county level road which leaves the roundabout immediately east of Kilmacanoge and turns southeast. Off this public road there is an access lane which loops along the lower edges of the Little Sugarloaf from which there are views over the landscape to the west. The access lane has no footpaths, cycle paths, a median line or drainage outlets. It serves about 10 houses and is fairly well metalled at both ends close to the public road but in the vicinity of the application site and two neighbouring houses it is in very poor condition, too narrow to allow vehicles to pass and inadequate for the

passage of public service vehicles. There are inadequate sightlines at the entrance to the application site and in any case vehicles would have to reverse to allow passage. The planning authority's engineering reports describes the access lane as heavily rutted and subject to surface water inundation. This is an accurate description.

7.10. I conclude that the proposed development would give rise to additional traffic movements on a substandard access road which is inadequate in width, alignment and surface treatment where there are no footpaths, cyclepaths, public lighting and where pedestrian refuge is limited. Therefore, the proposed development would endanger public safety by reason of traffic hazard.

#### 7.11. **Effluent Treatment**

7.12. The Wicklow County Development Plan (objectives W17 and W18) requires that applications for rural housing must demonstrate that proposed sites are suitable for the safe disposal of effluent, that domestic effluent will not impact on ground or surface water quality, that it may be disposed of on site in accordance with the EPA guidance and that multi-house developments will not be permitted to be served by private waste water treatment systems.

7.13. There is a permitted house on site of about 150m<sup>2</sup>. The submitted plans show that potable water is supplied by a private well south of the permitted house. Between the permitted house and the proposed granny flat is a DWWTS and associated percolation area and an area of vegetation/furze. There is a difference in site levels between the granny flat and the DWWTS of about 3m.

7.14. The planning authority's engineering advice is that the connection of two dwellings to a single DWWTS that relies heavily on a power supply and regular maintenance is not a resilient or sustainable system and the Environmental Health Officer sought additional information in relation to the sizing of the DWWTS and percolation area relative to the proposed pe of both the permitted house and the proposed granny flat.

7.15. The application includes a letter from a waste water desludging service stating that the DWWTS drains by gravity to the percolation area but since the percolation area is elevated above the proposed granny flat I agree with the planning authority's engineering advice that the system is pumped and thereby reliant on an electricity supply and maintenance.



- 7.16. The application is for retention of a stand-alone dwelling house that is not physically connected to the permitted house on site and that includes kitchen and bathroom. The application has not provided a site suitability assessment as required by the EPA code of practice which demonstrates the suitability of the for the safe disposal of domestic foul effluent. There are no details of the existing DWWTS which it is proposed to connect the additional dwelling house into and in particular its capacity to treat additional effluent. There is no detail of the size of the percolation area relative to the expected effluent quality or loading. The difference in site levels within the application site implies a necessity to pump effluent upgradient which is not the optimum treatment method.
- 7.17. Having regard to these matters I conclude that the proposed development materially contravenes the objectives set out in the current Wicklow County Development Plan in relation to domestic wastewater treatment, that the application has not demonstrated that effluent arising from the proposed development can be disposed of safely within the application site and the proposed development would, therefore, be prejudicial to public health.
- 7.18. **Appropriate Assessment.**
- 7.19. Having regard to the modest scale of the proposed development and the likely scale and nature of the emissions therefrom 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

- 8.1. I recommend that permission be refused.

## 9.0 Reasons and Considerations

1.	<p>It is an objective of the planning authority set out in the Wicklow County Development Plan 2016-2022 to strengthen the established structure of villages and smaller settlements both to support local economies and to accommodate additional population in a way that supports the viability of local infrastructure, businesses and services, such as schools and water services. Taken in conjunction with existing and permitted development in the area, the proposed development would give rise to sporadic housing in a rural area lacking certain public services and community facilities and served by a poor road network. The proposed development would, therefore, contravene materially the objective of the planning authority and would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.</p>
2.	<p>It is an objective of the planning authority set out in the Wicklow County Development Plan 2016-2022 that the treatment and disposal of domestic effluent comply with the standards set out in the Code of Practice for Wastewater Treatment and Disposal Systems for Single Houses (PE ≤ 10) (EPA 2009). The application has not demonstrated that domestic effluent arising from the proposed development would be treated to these standards and the proposed development would, therefore, be prejudicial to public health and give rise to a risk of groundwater pollution.</p>
3.	<p>The site is located on a minor road which is seriously substandard in terms of width, alignment and surface treatment and lacks public footpaths, cycle paths and public lighting. The traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.</p>

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Hugh Mannion  
Senior Planning Inspector  
7<sup>th</sup> December 2020