



An  
Bord  
Pleanála

## Inspector's Report ABP-309165-21

### Development

Permission for the retention of a permitted domestic store for use as a self-contained residential unit ancillary to main dwelling house for use by family members.

Permission is also sought for the upgrading of an existing wastewater treatment on site to current EPA standards to cater for the unauthorised development. Permission is also sought for ancillary site works.

### Location

Ferns Demesne & Kilbora,  
Enniscorthy, Co. Wexford.

### Planning Authority

Wexford County Council

### Planning Authority Reg. Ref.

20201276

### Applicant(s)

Mark & Anne-Marie Hobbs

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission

**Type of Appeal**

First Party

**Date of Site Inspection**

7<sup>th</sup> April 2021

**Inspector**

Paul O'Brien

## 1.0 Site Location and Description

- 1.1. The subject site comprises of an almost rectangular shaped piece of land with a stated area of 0.32 hectares located to the north west of the R772/ former N11 almost midway between Camolin and Ferns, Co. Wexford. Access to the site is via an entrance onto the public road and a long driveway of circa 360 m of non-bound gravel material and rises upwards to the site.
- 1.2. On site is a large house, with upper floor dormers, that faces south, and which appears to have been in use as a Bed & Breakfast facility. To the west of the house is a detached unit that appears like a small cottage; this is the unit proposed for retention/ the subject of this appeal. The design of this unit is similar to that of the main house, with a pitched roof, similar white painted render and general finish is similar. Whilst it does not have dormers, it is a two-storey house with windows provided in the end gables for light/ ventilation and it has a stated floor area of 102 sq m. A wastewater treatment system is located to the south east of the main house.
- 1.3. The site is located in a rural area and is bound by a mix of hedgerows and timber post and rail fencing. Due to the rise in the ground levels compared to the public road, the site provides for views over the surrounding countryside to the south, south west and south east.

## 2.0 Proposed Development

- 2.1. The development consists of the following:
  - The retention of a permitted converted store for use as a self-contained residential unit which is ancillary to the main domestic house for use by family members. The unit has two floors and a stated area of 102 sq m.
  - Permission is sought to upgrade an existing wastewater treatment system, to current EPA standards, in order to cater for the unauthorised development.
  - All ancillary site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to refuse permission for two reasons as follows:

1. 'The proposed self-contained living unit is still considered contrary to Section 18.13.3 of the County Wexford Development Plan 2013 – 2019 (as extended), by reason of being a detached two-storey unit. Furthermore the overall justification provided in supporting cover letter is not sufficient necessitate (sic) a detached two-storey self-contained living unit, for which a single storey attached extension may still considered (sic) more appropriate when assessed against Section 18.13.3 and given site location off R772(Old N11). The proposed development is therefore considered contrary to the proper planning and sustainable development of the area.
2. Inadequate information has been submitted in relation to the proposed effluent treatment arrangements onsite to enable the planning authority to adequately assess the impacts of the proposed development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area'.

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

#### **3.2.1. Planning Report**

The Planning report reflects the decision to refuse permission for the developments as described in the public notices. The Planning Authority Case Officer considers it possible to extend the existing house and provide for the necessary accommodation without impacting on the operation of the B&B. Concern was also raised in relation to the return of the unit for garage/ storage use when no longer required for use by family member(s). The development is contrary to Section 18.13.3 of the Wexford County Development Plan 2013 – 2019 as extended.

In addition, insufficient information has been provided in relation to the proposed upgrade of the wastewater treatment system.

### 3.2.2. Other Technical Reports

**Senior Executive Scientist (Environment):** Insufficient information was provided in relation to the proposed wastewater treatment system upgrade and further information was requested.

**A/Chief Fire Officer:** No objection subject to recommended conditions.

**Enniscorthy Municipal District:** No objection to this development subject to conditions in relation to surface water drainage.

**Roads Department:** No objection to this development subject to conditions.

### 3.2.3. Prescribed Bodies

None.

### 3.2.4. Objections/ Observations

A letter of support for the proposed development was received from James Browne T.D.

## 4.0 Planning History

There is a long planning history associated with this site and all by the same applicants, Mark & Anne Marie Hobbs:

**P.A. Ref. 20200168** refers to an April 2020 decision to refuse permission for the retention of conversion of permitted domestic store to self-contained residential unit for use by family members and permission is also sought to upgrade the existing waste water treatment to cater for the unauthorised development and to carry out ancillary siteworks (planning reg. no. 20110481 refers). Two reasons for refusal were issued (similar to the subject application reasons for refusal):

1. 'The proposed self-contained living unit is still considered contrary to Section 18.13.3 of the County Wexford Development Plan 2013 – 2019 (as extended), by reason of being a detached two-storey unit and the overall size and height. Furthermore insufficient evidence and justification has been provided to necessitate a detached self-contained living unit, which for an elderly relative would be more appropriate as a single storey attached extension to the main

dwelling. The proposed development is therefore considered contrary to the proper planning and sustainable development of the area.

2. Inadequate information has been submitted in relation to the proposed effluent treatment arrangements onsite to enable the planning authority to adequately assess the impacts of the proposed development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area’.

**P.A. Ref. 20170075** refers to a March 2017 decision to refuse permission for the erection of an extension and carry out alterations to existing serviced domestic store, to convert same to a self-contained residential unit for use by a family member to carry out ancillary siteworks (planning reg. no. 20110481). A single reason for refusal was issued as follows:

‘The development, as assessed by Transport Infrastructure Ireland (previously National Roads Authority), would result in intensification of traffic movements, and as such would be contrary to National Policy relating to development accessing National Primary Roads’.

**P.A. Ref. 20110481** refers to a July 2011 decision to grant permission for a domestic store.

**P.A. Ref. 20072230** refers to an August 2007 decision to grant permission for the retention and completion of alterations to dwelling house and site layout (planning register no. 20020659 refers).

**P.A. Ref. 20020659** refers to a September 2002 decision to grant permission for the erection of a serviced dwelling house.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. The following Sections of the Wexford County Development Plan 2013 – 2019 are relevant to this proposal:

- Chapter 4 Housing – 4.3 Sustainable Rural Housing
  - 4.3.3 Sustainable Rural Housing Strategy

The site is located on unzoned lands but within an area defined as a 'Stronger Rural Area'. In such areas it is an objective of the Council to:

**Objective RH03**

'To facilitate the development of individual houses in the open countryside in 'Stronger Rural Areas' in accordance with the criteria laid down in Table No. 12 and subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18.

**Objective RH04**

To facilitate individual houses, other than those referred to in 'Stronger Rural Areas' in Table No. 12, in the existing settlements including those settlements defined in the settlement hierarchy as Strong Villages, Smaller Villages and Rural Settlements, subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18'.

- Chapter 8 Transportation

The following is relevant:

**Objective T27**

'To prevent new or the significant intensification of existing, access/egress points from/to Class I Regional Roads. This objective will not apply in the following locations and circumstances but only in locations and for developments which will not give rise to public safety hazards:

- Farmers and their sons or daughters proposing to build a dwelling house for their own use provided that a need for that dwelling has been clearly established and where there is no suitable alternative access possible from the family landholding onto a local road.
- The sub-division of dwelling house sites to provide a dwelling for the use of a son or daughter of the original site owner, where a need for that dwelling has been clearly established and where there is no suitable alternative access possible from the family landholding onto a local road. Proposals for granny flat type

developments at such properties will be considered on their merits having regard to the characteristics of the site and the anticipated level of intensification of use of existing access point.

- The above criteria also apply where a shared access/egress from/to the Class 1 regional road is proposed (including with an existing access) and where access/egress from/to the Class 1 regional road is proposed via a private lane’.

- Chapter 14 Heritage – Landscape Character Assessment
- Chapter 18 Development Management Standards
  - 18.8 Accessibility
  - 18.12 Rural Housing
  - 18.13.2 Domestic Garages/ Stores
  - 18.13.3 Self-Contained Accommodation for use by a family member

‘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’.



- 18.29 Transport and specifically 18.29.3 – Sightlines
- 18.32 On-site Wastewater Treatment Facilities

## 5.2. National Guidance

5.2.1. **The Sustainable Rural Housing – Guidelines for Planning Authorities** (April 2005) is relevant to this proposal as they set out the need for rural housing in appropriate/ sustainable locations.

5.2.2. **National Planning Framework – Project Ireland 2040** recognises the importance of rural Ireland.

## 5.3. Natural Heritage Designations

None.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The applicants, Mark & Ann Marie Hobbs, have appealed the decision of Wexford County Council, who have refused permission for the retention of the change of use of a domestic shed to a family flat and for the provision of an upgraded wastewater treatment system.

The issues raised in the appeal include:

- Disappointed that the Planning Authority have not fully considered all of the documentation provided in support of the application and have chosen to ignore elements of the County Development Plan in their assessment of the development.
- Pre-planning consultation was held with the Planning Authority in October 2017 (Details provided on file) and are disappointed that submitted details were not acknowledged/ considered.
- Provided details as to the need for a detached family unit and the Planning Authority did not adequately consider these details. There was no suggestion

that the provision of an extension/ attached family flat would impact on the viability of the B&B.

- No consideration was given to the fact that the unit is an existing structure, and the extension of the existing house would result in a waste of resources, materials and labour – would be unsustainable.
- The applicants have referenced a number of similar developments which were granted permission – not all of these permitted developments were in Co. Wexford.
- The applicants hoped to get a letter of support for the development from their GP but due to Covid constraints this was not possible.
- The second reason for refusal seems confusing as the Environment Section sought further information and were not recommending that permission be refused.

Request that permission be granted following four years of unfair treatment by the Planning Authority and a need for this unit for use by the applicant's elderly parent.

## 6.2. **Planning Authority Response**

None.

## 7.0 **Assessment**

7.1. The main issues that arise for assessment in relation to this appeal can be addressed under the following headings:

- Principle of the Development
- Compliance with the Requirements of the Development Plan
- Design and Impact on the Character of the Area
- Wastewater Treatment System
- Other Matters
- Appropriate Assessment Screening

## **7.2. Principle of the Development**

- 7.2.1. The subject site is located in a rural part of County Wexford and as such the subject lands are not zoned. The development of a self-contained residential unit for a family member is therefore open for consideration in terms of the objectives of the development plan.
- 7.2.2. Permission was granted for a domestic store under P.A. Ref. 20110481 and considering the nature of this unit, it was considered by the Planning Authority to be acceptable as a detached unit. The subject application/ appeal is for the retention of the conversion of this unit for use as a self-contained residential unit for a family member.

## **7.3. Compliance with the Requirements of the Development Plan**

- 7.3.1. Section 18.13.3 sets out clearly the requirements for a self-contained residential unit for a family member; I will refer to this unit as a family flat in this report. The Wexford County Development Plan 2013 – 2019 as extended, clearly allows for the development of family flats subject to meeting the requirements of the development plan. From the available information, the unit is for the parents of one of the applicants, though the need for this has not been adequately detailed.
- 7.3.2. Section 18.13.3 states that the family flat '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'. Clearly the subject unit is detached, and it is unclear how it will be incorporated into the main dwelling house when its use ceases, other than to revert to use as a domestic store. Other than the store exists, and is built to suitable standards, no reason is given as to why a detached unit is required. I do not accept this reason as justification for the detached family flat.
- 7.3.3. I note the comments made in the cover letter in support of the application and the appeal statement regarding the difficulties of providing an extension to the existing house and why the domestic store is a more suitable location for the family flat. Whilst I note these comments, I do not accept the reasons as to why the unit cannot be attached to the house. To do so may result in the loss of an en-suite and part of a bedroom in the house and part of the room labelled as a 'Quilt Room' in the family

flat, but it should be possible to provide a physical connection between the two. I dismiss the argument about loss of floor space as the family flat is a substantial unit at 102 sq m for a one bedroom/ two-person unit and whether used as a family flat or long term as an extension to the main house, it will provide a significant amount of floor area.

7.3.4. I noted from the site visit that the unit appears to benefit from a separate entrance, however this may have been in place for some time and the occupants will have to use the same driveway and entrance onto the public road as do the occupants of the main house.

7.3.5. In conclusion, the applicants have not adequately demonstrated a need for the retention of this unit as a self-contained residential unit for a family member, inadequate justification for a detached unit has been provided and it is considered that the applicants have failed to demonstrate compliance with the requirements of the Wexford County Development Plan 2013 – 2019 as extended, in relation to such development.

#### **7.4. Design and Impact on the Character of the Area**

7.4.1. The subject site is prominent due to its raised position relative to the R772/ former N11. I am satisfied that it does not adversely impact on the visual amenity of the area. The unit has already been considered acceptable, in the form of a domestic store, by the Planning Authority.

#### **7.5. Wastewater Treatment System**

7.5.1. The second aspect of the appeal is a refusal of permission for the upgrading of the wastewater treatment system to accommodate the separate unit. The Planning Authority considered that insufficient information had been provided to support this aspect of the development. The Senior Executive Scientist recommended that further information be sought from the applicants in form of an up-to-date maintenance and inspection certificate for the existing Tricel Vento Puraflo peat filter modules from the manufacturer. This request was not issued, but it is evident from the appeal statement that the applicants are aware of the unissued request.

7.5.2. The applicants' agents consider that adequate information is available to assess this aspect of the development. A survey of the existing treatment system finds it to be in good condition and whilst the wastewater treatment system can cater for the

increased loading, the percolation area needs to be increased. The existing percolation area is 2 x 8 m long percolation trenches, and it is proposed to increase this by 5 x 10 m (500mm wide) percolation trenches. This will provide for an additional 50 m of percolation area/ a total of 66 m of percolation area.

Correspondence on file indicates that MK Environmental will undertake the foul drainage upgrade works and also includes the desludging of the existing system, the re-filling of all four peat modules and the installation of a new EPA compliant soil polishing filter.

- 7.5.3. From the available information, the proposed upgraded system is appropriate to this situation. The acceptability of the treatment system was considered under previous applications and other than upgrade elements of it, the only significant change is the provision of an increased percolation area. It is considered that this aspect of the development should be granted permission as the upgrading/ improvement of existing wastewater systems is of environmental value. The existing system facilitates seven bedrooms with a percolation expectancy of 11 P.E.; the additional bedroom does not significantly increase the loading.

## **7.6. Other Matters**

- 7.6.1. Reference is made to pre-planning and advice given. Pre-planning is without prejudice and whilst advice should not be misleading, the final assessment is dependent on the information provided in support of the application.
- 7.6.2. There is a relatively long history of applications on this site. Previously there was a concern that development would impact on the N11, national primary route. I note this and find it somewhat difficult to believe that a family flat would have as great an impact as the operation of a B & B, however that issue no longer applies as the road has been downgraded to regional road status.

## **7.7. Appropriate Assessment Screening**

- 7.7.1. Having regard to the nature and scale of the proposed development and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

## 8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the retention of the conversion of an approved, detached domestic store for use as a self-contained residential unit for family members, for the following reason and considerations as set out below.
- 8.2. Having regard to the provisions of the Wexford County Development Plan 2013 – 2019, as extended, and the requirements of the ‘Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses’ (EPA 2009), it is considered that, subject to compliance with the conditions set out below, the proposed upgrading of the on-site wastewater system to an EPA (2009) compliant wastewater treatment system, primarily through the increased percolation area and filter, would not seriously injure the amenities of the area. I recommend that planning permission be granted for the upgrading of the wastewater system and the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 9.0 Reason and Considerations

1. The retention of the conversion of a domestic store for use as a detached self-contained residential unit for family members would materially contravene the provisions of the Wexford County Development 2013 – 2019, as extended and specifically Section 18.13.3 – ‘Self Contained Residential Unit for use by a Family Member’, which seeks to ensure that family flats are linked directly to the main dwelling house and are temporary in nature. The Council may consider the provision of a detached unit where the need for same is adequately demonstrated. Insufficient justification for such a conversion has been provided by the applicants and they have failed to demonstrate compliance with all relevant aspects of Section 18.13.3 of the Wexford County Development 2013 – 2019, as extended. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The upgrading of the existing wastewater system shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 2<sup>nd</sup> of November 2020, 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>(a) The upgraded effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the Planning Authority on the 20<sup>th</sup> of November 2020 and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Within three months of the completion of the wastewater treatment system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of</p>

	<p>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><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
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Paul O'Brien  
Planning Inspector

10<sup>th</sup> May 2021