



An
Bord
Pleanála

Inspector's Report

ABP-309411-21

Development	Permission for alterations to existing granny flat, installation of new wastewater treatment system, and all associated site works.
Location	Part of Loginsherd, Lady's Island, Carne, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20201385
Applicant(s)	Pat and Jacqui Reville
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Pat and Jacqui Reville
Observer(s)	None
Date of Site Inspection	20 th April 2021
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.5932 ha and is located in the townland of Loginsherd, Lady's Island, County Wexford. The site is presently accessed from the driveway to the applicant's two storey dwelling which is located to the west of the site. Adjoining lands have recently been purchased by the applicant's adjacent to the site and a new access is proposed from an adjoining county road to the north of the site.
- 1.2. Existing development on the site comprises of a large detached converted garage which was previously used as a 'granny flat'. The granny flat has a stated area of c. 125m². A small wooden shed is also located on the site. The site is located a designated coastal zone and there are spectacular views of both the sea and Carnsore Point windfarm from the site.

2.0 Proposed Development

- 2.1. Permission is sought for the following:

(1) Alterations to an existing granny flat granted permission under planning reference No. 20064617. Alterations proposed include a number of windows at ground floor and roof level together with a porch and the removal of the existing garage door and chimney.

(2) The installation of a new on-site wastewater treatment system to serve the dwelling.

(3) The revision of boundaries and site plan to reflect a proposed new entrance for the dwelling.

(4) All associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission refused for 3 No. reasons as follows:

1. The application site is located within a Landscape of Greater Sensitivity within the Coastal Zone, where it is the policy of the Council to restrict development of one-off

houses to applicants with an over-riding need to reside at that location, in accordance with Table No. 12 of the Wexford County Development Plan 2013-2019 (extended), and the proposed development would be contrary to the proper planning and sustainable development of the area.

2. The proposed development represents a haphazard pattern of backland development, would set a precedent for further such development in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3. In the absence of an explanation for the difference in T- Values obtained for the current application and the T-Value of >75 obtained for planning register number 20064617 on the site the Planning Authority is not satisfied that the wastewater can be satisfactorily treated on the site. Therefore, the proposed development may be prejudicial to public health.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report details a pre-planning meeting where the applicants were given advice that the proposal would not be favourably considered.
- It was considered that the applicant's need for a dwelling in this sensitive coastal area has been met and permission should be refused on this basis and that the proposal would result in backland development which is undesirable.

3.2.2. Other Technical Reports

Environment Section: Further Information required in relation to the difference in T- Values between tests carried out for the previous application on the site and the current application.

3.3. Prescribed Bodies

3.3.1. No reports.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

PA Reg. Ref. 940817

Permission granted to Patrick Reville to erect a serviced dwelling house and garage.

PA Reg. Ref. 20064617

Permission granted to the current applicants for change of use of an existing domestic garage to a self contained annex accommodation to existing house (as granny flat use), erection of a domestic garage, and provision of an effluent treatment and all associated site works.

Condition 5 required that the proposed granny flat shall be used for purposes incidental to the enjoyment of the main dwelling and shall not be sold, let or otherwise transferred or conveyed separately to the main dwelling.

PA Reg. Ref. 20190282 (c. 1km to north of current site)

Permission refused to current applicant's in the townland of Ballysheen, Lady's Island for the erection of a dwelling, domestic garage, and associated site works.

5.0 Policy Context

5.1.1. The operative Development Plan is the Wexford County Development Plan 2013 to 2019 as extended. The plan sets out its rural housing policy in Chapter 4 and the site is located in an area under strong urban influence. The following objectives are of relevance:

Objective RH01

To facilitate the development of individual houses in the open countryside in 'Areas Under Strong Urban Influence' in accordance with the criteria laid down in Table No.

12 subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18.

Objective RH02

To facilitate individual houses, other than those referred to in 'Areas Under Strong Urban Influence' 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 complying with normal planning and environmental criteria and the development management standards laid down in Chapter 18.

Permitted development under areas of strong urban influence include:

Housing for 'local rural people' building permanent residences for their own use who have a definable 'housing need' building in their 'local rural area'.

- 5.1.2. The application site is located within a Landscape of Greater Sensitivity within the Coastal Zone. Section 1.3.4 of the Landscape Character Assessment notes that in South Wexford, Forlorn Point (Kilmore Quay), Carnsore Point and Rosslare Point are prominent features in the coastal land/seascape. Now dominated by wind turbines, Carnsore Point is of significance as the most south-easterly point on the island of Ireland.
- 5.1.3. Landscapes of Greater Sensitivity are designated under the Landscape Character Assessment contained in Volume 3 and are shown on Map No. 13. These areas are highlighted as the most sensitive and scenic areas of the county that need to be protected from inappropriate development for the benefit of future generations but also because they are the reason that many people visit Wexford and so it is important to protect them for the tourist revenue they bring. Specific objectives with regard to design and siting in these areas are included in Section 14.4.
- 5.1.4. Other Relevant Sections include the following:

Section 18.13.3

Self-contained Residential Unit for use by a Family Member states 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.

Section 13.5 Development outside of existing settlements in the Coastal Zone

The Council recognises the importance of retaining the character of the coastal zone so as protect the quality of the tourism product, the environment and to ensure the overall proper planning and sustainable development of the coastal zone. The Council will carefully consider development proposals outside of existing settlements, and in the case of one-off rural housing, will only consider developments where the applicant has demonstrated a need to reside at the particular location in accordance with the Sustainable Rural Housing Strategy in Chapter 4.

5.2. Sustainable Rural Housing Development Guidelines

- 5.2.1. The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.3. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

- 5.3.1. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.

5.4. Natural Heritage Designations

- 5.4.1. The site is not located within a designated Natura 2000 site. It is noted that the appeal site is located within 1km of Lady's Island Lake SAC/ SPA and Carnsore Point SAC.

5.5. EIA Screening

- 5.5.1. 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

The grounds of appeal can be summarised as follows:

- The proposed development is not backland development as the development is already in place and therefore a negative precedent will not be established should the proposal be permitted.
- The facilitation of this proposal would free up a large house for family occupation in an area where there is strong demand for housing.
- The applicant's acquired additional land adjacent to their house so that a proposed subdivided unit could have its own access, on-site system and site area in excess of c.0.5 acres.

- The applicant's current home is not sustainable for a retired couple when a more modest house is available.
- The variations in T test results can be explained by the distance between locations where the T tests were completed. Moreover, the applicants did not own the lands where the 2020 T Tests were undertaken back in 2006 and a map has been submitted with the appeal response indicating the differing locations of the tests.

6.2. Planning Authority Response

- The response submitted by the Planning Authority states that 'the applicant's housing need has been met under planning register ref. 94/0817 and an additional dwelling as proposed is unnecessary at this location.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. I consider that the principal planning issues are as follows:

- Principle of Development
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The main issue in this case relates to the need of the applicant's for a rural house at this location. The site is located in a very scenic area near Carnsore Point where the main vistas from the site are the sea and a windfarm. The site is designated as a 'Landscape of Greater Sensitivity' on Map No. 13 of the Development Plan. There are a considerable number of holiday homes and holiday type accommodation including self catering units and a camping site in the general vicinity of the site.

- 7.2.2. The applicant's currently own a very large home adjacent to the site. Under PA Reg. Ref. PA 20064617, permission was granted to convert an existing garage to a self contained annex. This was previously used as a granny flat but is currently unoccupied. The applicant's state that their current home is too large for them as a retired couple and wish to downsize to the granny flat. It is stated that the main house is no longer required by them and that the proposal will free up a house suitable for a larger family which would be a more sustainable use.
- 7.2.3. Having inspected the granny flat, I note that it is a large 2/3 bedroom dwelling (stated floor area of c. 125m²) in excellent condition. I refer the Board to the internal and external photographs in this regard. I consider that the changes proposed in this application are minimal from a visual perspective and would have very little impact on the sensitive landscape.
- 7.2.4. I note that the second reason for refusal by the Planning Authority related to concerns regarding backland development and the precedent that this would set for further such development in the area. I would tend to agree with the appeal response which states that the development is not backland development as the development is already in place and as such a negative precedent would not be established.
- 7.2.5. I note that the type of granny flat already permitted at this location is not a typical granny flat due to its size, condition, and self contained nature.
- 7.2.6. The site is located in an Area under Strong Urban Influence and in a Landscape of Greater Sensitivity. Table 12 of the Wexford County Development Plan requires that housing in such areas must be permanent residences for their own use for persons who have a definable housing need. People who have a 'housing need' are considered to be people who have never owned a rural house (except where it can be demonstrated that the dwelling is no longer suitable to the applicants needs).
- 7.2.7. The critical issue in this case is that the applicant's already have a very large house on the site and do not have a definable housing need in my view. It is intended to sell this house to a larger family and downsize to the existing 'granny flat'. Lands adjacent to the granny flat were recently purchased by the applicant's in order to provide for a new access from an adjoining county road and the installation of a new wastewater treatment system.

7.2.8. Whilst I do not refute that the applicant's have a need to downsize, this issue is faced by many people as they get older and their family situations change, and in my view does not establish the need for a second dwelling in a sensitive rural area. To grant permission for all people facing this situation would be unsustainable in my view. In terms of the housing policy as set out in the Development Plan, the applicant's housing need in a rural area has already been met. I note that the planner's report in a recent application under PA Reg. Ref. 20190282 states that 'the applicant has been granted permission for at least two other one-off dwellings in this area over his lifetime.' I also note that Condition 5 of PA Reg. Ref. 20064617 required that 'The proposed granny flat shall be used for purposes incidental to the enjoyment of the main dwelling and shall not be sold, let or otherwise transferred or conveyed separately to the main dwelling. I consider that the separation of the main dwelling and the 'granny flat' as proposed would materially contravene this condition.

7.3. Other Issues

- 7.3.1. I note that the third reason for refusal considered that in the absence of an explanation for the difference in T-values obtained for the current application and the T-value of > 75 obtained for planning register number 20064617 on the site the Planning Authority is not satisfied that the wastewater can be satisfactorily treated on the site.
- 7.3.2. The appeal response states that 'this is explained quite simply by the fact that there is quite some distance between the locations where the T tests were completed. Moreover, the applicants did not in fact own the lands where the 2020 T tests were undertaken back in 2006...'
- 7.3.3. A map has been included in the appeal response which indicated that the tests were carried out in completely different locations with a considerable distance between both locations.
- 7.3.4. I consider that the above explanation is satisfactory and addresses the third reason for refusal by the Planning Authority.

7.4. Appropriate Assessment

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

8.0 Recommendation

- 8.1. I recommend refusal for the following reasons:

9.0 Reasons and Considerations

1. Having regard to the location of the site within a 'Area of Strong Urban Influence' as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current Wexford County Development Plan 2013 – 2019, as extended, and having regard to national policy, as set out in National Policy Objective 19 of the 2018 National Planning Framework, that facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements, the Board is not satisfied that the applicant has provided sufficient justification for a rural housing need to live in this particular rural area, or the applicant's housing need cannot be satisfied in a smaller town or rural settlement. The proposed development comprises the conversion of an existing granny flat to a permanent place of residence in a rural area where the applicant owns and occupies an existing house in the immediate vicinity. It is considered that the applicant does not come within the scope of the housing need criteria for a house at this location as set out in the current Development Plan. The proposed development, in the absence of any identified need for a second dwelling, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the Development Plan provisions

relating to sustainable rural housing and would, thus, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would materially contravene a condition attached to an existing permission, that is condition number 5 attached to planning permission register number 20064617 which requires that the granny flat shall be used for purposes incidental to the enjoyment of the main dwelling and shall not be sold, let or otherwise transferred or conveyed separately to the main dwelling. The proposed development would, therefore, set an undesirable precedent for further development of the type proposed, and would be contrary to the proper planning and sustainable development of the area.

Emer Doyle
Planning Inspector
5th May 2021