



An
Bord
Pleanála

Inspector's Report

ABP-310123

| | |
|-------------------------------------|--|
| Development | Self contained detached annex for separate living accommodation within curtilage of permitted dwelling house (PA 20190152) |
| Location | Grove Little, Kilnahue, Co. Wexford. |
| Planning Authority | Wexford County Council |
| Planning Authority Reg. Ref. | 20210197 |
| Applicant(s) | Clive Cobbe |
| Type of Application | Permission |
| Planning Authority Decision | Refusal |
| Type of Appeal | First-Party v Decision |
| Appellant(s) | Clive Cobbe |
| Observer(s) | None |
| Date of Site Inspection | 20 th November 2021 |
| Inspector | Suzanne Kehely |

1.0 Site Location and Description

- 1.1. The appeal site of .4 hectares relates to that of a single rural dwelling house of c.300 sq.m. which was granted permission in 2019 but has not been yet constructed. The site is part of a large field under grass and located on what appears to be a private cul-de-sac lane about 600m off the Hollyfort Road at a point about 6km north west of Gorey town. The land character is dominated by agricultural use and there are a number of farm yards in the vicinity in addition to dispersed housing. There are at least 4 houses some of which are under construction or refurbishment along this lane.
- 1.2. The laneway is narrowly aligned and slopes downwards along the site frontage.
- 1.3. The site is about 250m upgradient from the River Bann - part of the Slaney River Valley (SAC - site code 00781)
- 1.4. The GSI data on the current EPA website indicates that the site is in an area which straddles groundwater vulnerability zones. It appears to be where bedrock is high and exposed but is also close to the area where vulnerability of groundwater is high. The GSI Bedrock Aquifer is LI (Locally important). The ground water quality is good.

2.0 Proposed Development

- 2.1. Permission is sought for an annex ('granny flat') in the form of a detached two storey building of 139 sq.m. within the curtilage of a permitted dwelling house. It has a footprint of 9m x 8.8m (c. 80sq.m.) and is laid out with an open plan living/dining ground floor with bathroom and an upper dormer level with one bedroom, one hobby room (no window) and a jack and jill bathroom (no window). The site layout shows the proposed well and waste water treatment system as previously approved for the existing house and this is proposed to serve the proposed accommodation. The treatment system is sited down gradient of the house in the north eastern corner whereas the well is at the western side of the site. The unit is proposed between the house and the well.
- 2.2. No details of the waste water treatment system are provided. It is explained in the correspondence that the purpose of the dwelling is to permit the applicants to

provide for long term supervised but 'independent' living accommodation for a dependant son in his 20s. Medical documentation supports this.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse permission for the stated reasons:

- Section 18.13.3 of the Wexford County Development Plan 2013-2019 states that the council may consider the provision of a detached self-contained unit where the need for such a unit is demonstrated. The need for this development to be detached 2 storey has not been demonstrated and as such the proposed granny flat is therefore contrary to Section 18.13.3 of the Wexford County Development Plan 2013-2019.
- The proposed detached independent self-contained residential unit is an unacceptable intensification of the existing site with a high probability of system failure and may give rise to a public health hazard/environmental pollution on the site.
- In adequate information has been provided in relation to a site characterisation report and therefore the planning authority are unable to fully assess whether or the waste water treatment system granted permission on this site is of adequate size to accommodate the additional effluent loading from the proposed living accommodation.

3.2. Planning Authority Reports

3.2.1. Planning Report: The planning report makes reference to the following:

- By reference to the Development Plan criteria in section 18.13, the proposal as a detached unit is not considered to be justified notwithstanding the medical information supporting the case. There are also concerns about the adequacy of the wastewater treatment system as raised by the environment section. It is preferable that such accommodation adjoins the dwelling.
- The planning history wherein the detached accommodation was previously refused.

- The proposed development does not require Appropriate Assessment or an EIAR.

3.3. Other technical reports

3.3.1. Environment section: Issues raised as reflected in the decision.

The report refers to the previous application wherein further information was recommended requiring revision of the submitted details and design of the treatment system for a PE of 8. It was also recommended to require submission of amended manufacturer's specification which reflects the presence of the bedrock at 0.4m below ground in additional to section drawings. It is noted in the subject case that details have not been submitted including site characterisation report.

4.0 Planning History

4.1. Subject site: Planning authority reference 20190152 refers to a split decision on the site. Permission was granted for a fully serviced dwelling house and refused for detached granny flat of c.135sq.m. and 6.6m in height. The reason for refusal states that the need for the detached unit has not been clearly demonstrated and is contrary to section 18.13.3. (Details in pouch on file.)

4.2. Site to west: Planning authority reference 20120363 refers to permission to retain alterations to dwelling house as permitted under ref 20052403. (Details in pouch on file.)

5.0 Policy & Context

5.1. Wexford County Development Plan 2013-2019

5.1.1. Section 18.13 .1 sets out guidelines for house extensions. Section 18.13.2 refers to garages and stores which shall be generally 80sq.m. and 5m in height.

5.1.2. Section 18.13.3 refers to Self-contained residential units for use 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. The Draft Wexford Development Plan 2021-2027 has not yet been adopted.

5.3. EPA, Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) came into effect on 7 June 2021.

5.4. **Environmental Impact Assessment - Preliminary Examination**

5.4.1. The proposal relates to a modestly scaled ancillary accommodation unit within the curtilage of a permitted dwelling and is I consider comparable to a domestic extension. It may result in a potentially slightly larger capacity wastewater treatment system by increasing the loading by a P/E of 1 or 2 persons at maximum as a consequence of the bed space capacity. I consider that based on the nature and scale of the development within the curtilage of such a dwelling, the requirement for a R1 or R2¹ response in a groundwater area characterised as 'locally important' aquifer, the good groundwater quality and subject to compliance with the EPA Codes of Practice the absence of any connectivity to any sensitive location, 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. A first-party appeal has been lodged against the decision to refuse permission. The case put to the planning authority is reiterated in that the applicant's son requires semi-independent living accommodation and a letter from a GP verifies the medical diagnosis.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority makes no comment on the grounds of appeal.

7.0 Assessment

7.1. Issues

- 7.1.1. This is a first-party appeal against a refusal of permission for detached living accommodation within the curtilage of an existing dwelling. The issues centre on:
- Principle of annex/granny flat
 - Effluent Treatment

7.2. Principle

- 7.2.1. The key issue in this case is the principle of a detached rather than an interconnecting and attached self-contained living unit within the curtilage of a permitted dwelling house which has not yet been built. The planning authority makes the case that as the house has not yet been built, an attached annex could easily be incorporated and would in this format then comply with the development plan criteria for such accommodation. It is stated in the report that attachment would be the preference and that the detached nature is simply not justified.
- 7.2.2. The applicant however makes the case that his son is a young man and that the detached unit provides some semblance of independence while remaining within the curtilage of the family home. It is explained that the long term arrangements are such that his other son will take over the family home while maintaining ongoing care.
- 7.2.3. I note the proposal meets with criteria of section 18.13.3 generally in respect of need, internal layout /accommodation not exceeding two bedrooms, shared vehicular

access and amenity space. I also consider there is a reasonable case to allow for ancillary accommodation in a detached format. I say this having regard to the nature of the need and to the site size and location. In terms of size and bulk I note the unit only marginally exceeds the guided scale for detached garages in section 18.13.2 by being just over 6m rather than 5.5m in height. I do however note that the size of the unit at almost 140 sq.m. is quite large in floor area and will result in a total floor area of c.440sq.m. for the family home and this is relevant in terms of intensification. I also note that the roof profile is different to that of the permitted dwelling in that it is of a shallower pitch. If the pitch was better matched and steeper it would better assimilate visually with the principal dwelling house and also reduce the first floor to a more ancillary scale in terms of its intended use as a principally single occupancy unit. This could be dealt with by condition.

7.3. Effluent Treatment

- 7.3.1. The grounds of refusal refer to intensification of the wastewater treatment plan. The grounds of appeal do not address this matter. There are no details of the effluent treatment system either in terms of how it complies with the extant permission or how it is proposed to upgrade it to meet additional demand based on occupancy capacity, nor has a site characterisation report been submitted. I note the environmental section of the planning authority raised concerns about the adequacy of the permitted system. I also note that the Environmental section previously requested further information in respect of the proposed main house but that was not requested and this matter was it appears addressed by condition. I do not have the full details of that file but such an approach is generally contrary to the EPA guidance (2021) for domestic waste water treatment systems.
- 7.3.2. I note that the previous permission excluded the granny flat and anticipated a restructured sizing of the treatment system to be based on a P/E of 6 – this appears to be based on a three-bedroom house which had a potential fourth bedroom whereas the environment division required a design for PE of 8 taking account of the granny flat. In this case there will be an additional bedroom to provide for an existing family member. Arguably there is likely to be no material increase in use as it is to be used by the applicant's son alongside his immediate family. There is accordingly

only likely to be a very negligible increase if any in loading of the permitted treatment system.

- 7.3.3. Based on the file submissions including history documents, I note the site characteristics indicate a soil depth of 0.4m before reaching gravel. Percolation tests indicate a T value of 12. Having examined EPA data and having regard to the soil depth and the GSI Vulnerability ratings in the area and LI aquifer status, the appropriate response is at least R1 and at most R2¹ which generally provides for a sewage treatment system subject to normal good practice . R2¹ requires that where domestic water supplies are located nearby particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required are met and that the likelihood of microbial pollution is minimised. In this case the ground water flows west to east in the direction of the river valley and there are no intervening houses. There are dwellings in the other side of the river. The proposed well servicing the dwelling is upgradient on the other side of the site. I consider the risk to public health via water supplies to be unlikely. This is however predicated on compliance with the EPA Codes of Practice for domestic effluent treatment systems.
- 7.3.4. Based on the information on file it would appear that a treatment system with a tertiary polishing filter is required. I consider it however overly restrictive to prohibit the addition of what amounts to one bedroom.
- 7.3.5. Ultimately the house as permitted is required to comply with the conditions of permission . Condition numbers 3, 8 and 10 address effluent treatment and agreements but do not state a PE capacity – this is inferred by the omission of the granny flat.
- 7.3.6. The question is whether or not the scope of a grant of permission in this case permits an amendment to the permitted treatment system. As the loading is minor in scale I consider this to be reasonable. This may however necessitate a modification to the overall layout in terms of providing an increased set back of the house from a possibly enlarged or revised percolation area. Clearly if this involves significant earth works over an extensive part of the site this would be material. I would see little difficulty with moving the house up to a few metres closer to the proposed annex having regard to the >8m separation and the location of the well on the far side of the annex. I consider this ultimately to be matter for the planning authority in addressing the position of main house as part of compliance with permission for same. I consider the scope of this permission could permit a modest increase of 2

PE to the system. This would be in line with the previous requirements of the Environment Division subject to agreement of details.

8.0 Appropriate Assessment

8.1. Having regard to the minor nature of the proposed development which is comparable to domestic extension and to 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 have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

9.1. I recommend that Permission be granted based on the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the scale and nature of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not give rise to water pollution or pose a risk to public health and would be in accordance with the provisions for ancillary family accommodation, as set out in Wexford County Development Plan 2013-2019 as extended. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, , 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

The proposed roof pitch shall be revised to a steeper pitch consistent with the single storey section of the main dwelling house as permitted under planning authority reference 20190152, the ridge shall not exceed 6m in height and the first floor shall be reduced accordingly. Revised drawings and particulars showing compliance with these requirements, including the method for protection of the wall, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The proposed granny flat shall be used for purposes ancillary to the main dwelling house only. It shall be occupied solely by a member(s) of the immediate family of the occupier of the main dwelling house. It shall not be sold, let or otherwise transferred or conveyed independently of the main dwelling house and, when no longer required for use as a granny flat, shall revert to use for purposes incidental to the enjoyment of the main dwelling house.

Reason: In the interests of clarity and to prevent intensification of single dwelling house site in a rural area.

4. The proposed development shall not be used for short term letting nor for tourist accommodation.

Reason: In the interests of clarity and residential amenity.

5. (a) The effluent treatment and disposal system as permitted for the main house shall be upgraded to provide for an additional loading of p.e. not exceeding 2 (and not exceeding p.e. of 8 for the entire development on site) 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, 2021 and shall be otherwise located,

constructed and maintained in accordance with the conditions of planning authority reference 20190152. Revised details and arrangements in relation to ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the first occupation of the 'granny flat', 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.

Reason: In the interest of public health

6. The external finishes of the proposed development shall be the same as those of the main dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

7. There shall be no subdivision of the private amenity space or provision of independent vehicular access.

Reason: In the interest of residential amenity.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 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.

Reason: In the interest of amenity

Suzanne Kehely
Senior Planning Inspector

23th November 2021