



An
Bord
Pleanála

Inspector's Report ABP-313068-22

Development	Retention of works completed on-site consisting of the installation of a gravel base . Permission for the erection of a self-contained accommodation unit and all associated site works.
Location	Staplestown (Graves) Rathaspick Co.Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20211727
Applicant(s)	Jenny Stenning
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Esther Hunt
Observer(s)	None
Date of Site Inspection	28 th November 2022
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.2 ha is an infill site located on the northern side of narrow local road. There is a farmhouse and associated farmyard (applicants parents dwelling) to the rear of the appeal site that is accessed by a lane immediately due east of the site frontage. The site slopes very gently to the rear away from the road. There is an existing agricultural entrance serving the site. The immediate area is characterised by significant linear development. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Permission was sought on the 8th November 2021 for the following:
- 1) Retention of works completed on-site consisting of the installation of a gravel base
 - 2) Permission for the erection of a self-contained timber log cabin accommodation unit (58.4 sqm) and all associated site works.
- 2.2. While not explicitly stated in the public notices the development is to be served by a wastewater treatment plant and soil polishing filter. Details of a biodegradable solution is submitted together with a site characterisation form.
- 2.3. The application was accompanied by the following:
- Letter of consent from the landowners (applicants' mother)
 - Letter from Murrintown National School stating that the applicant is a past pupil and that her children also attended the school
- 2.4. The applicant submitted a further unsolicited letter on 12th December 2021 setting out the personal circumstances as to why the applicant is making this application.
- Applicant is separating from their husband, and they need to move out of the family home. The family home is not being sold. Applicant has been given a site by her parents. Log Cabin is more affordable than a mortgage
 - In relation the third-party observations it is submitted that there is contradicting information in the submission. The log cabin will not be visible from the observer's house or garden unless it is viewed from the bottom of the garden. The cabin

would be facing towards the mountain and will not impede privacy. The log cabin is to be the applicant's permanent home.

2.5. Further information was submitted on the 1st February 2022 and summarised as follows:

- Letter from the applicant setting out that she is separated and needs to move out of the family home. The only affordable option is a log cabin that is being paid for by the applicant's former husband. It is also stated that "for further evidence" the reader is referred to the letter sent in by Cllr Frank Staples.
- Letter from Murrintown National School stating that the applicant attended the primary school from 18th April 1977 to 28th June 1985.
- Landscape proposals.
- The existing agricultural entrance is to be closed and landscaped. The appeal site will be accessed by an existing lane immediately due east of the site that also serve the applicants parents' house to the rear.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Wexford County Council issued a notification of decision to grant permission subject to 10 no generally standard conditions. Conditions of note are as follows:

1)	Compliance with plan and particulars submitted with the planning application and further information submitted 1 st February 2022
2)	Section 47 owner occupation for 5 years
3)	House to be used as a permanent residence only

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** in their first report requested that further information be sought relating to (1) revised letter from applicant's primary school with dates and duration of attendance, (2) evidence of applicants martial separation which has

necessitated the current application and (3) detailed planting and landscaping plan. Further information was requested on the 7th January 2022.

- The **Case Planner** in their second report and having considered the further information recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by Wexford County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Environment Section** – Recommended a grant of permission subject to conditions relating to waste water treatment and compliance with EPA Code of Practise.

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

- 3.4.1. No observations have been made available with the appeal file. I note from the Case Planners report that there were two observations from (1) Esther Hunt and (2) Danielle Mahoney. I have printed both observations from the Wexford County Council website and placed them on the appeal file. The Board may wish to seek copies of same directly from the Planning Authority.
- 3.4.2. The issues raised relate to future use, design, area over development, unauthorised development, proximity to adjoining properties, impact on residential amenity due to overlooking, loss of privacy, loss of light and noise, noise, planting will take to long to mature and site is too small.
- 3.4.3. There is a letter of support from Cllr Frank Staples. Information pertaining to the applicant's personal circumstances is set out and is available to view on the appeal file. In summary the applicant is separated, and is moving out of the family home.

4.0 Planning History

4.1. No planning history has been made available with the appeal file and there is no evidence of any previous appeal at this location. I note from the Case Planners report that there was an enforcement issue relating to the site as follows:

- **Case No 0219/2021** – Potential authorised 3 no bedroom log cabin. The outcome is recorded as a *cessation of activity and submission of planning application*.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the area is the **Wexford County Development Plan 2022 – 2028**. I refer to Map 1 – Rural Area Types. The appeal site is located within an area identified as **Strong Urban Influence**. **Table 4.6 Criteria for Off One Rural Housing** sets out the following:

Rural Area Type	Category A	Category B
Strong Urban Influence	A person who has lived full-time in a principal residence for a minimum of 7 years (not necessarily concurrently and at any time in their life) in that local rural area and the site is within 7km radius of where the applicant has lived or is living and who has never owned a rural house. (See Point 4 in Definitions and Notes regarding owning a rural house). The dwelling must be the person's permanent place of residence.	Persons who by the nature of their work have a functional need to reside permanently in the rural area close to their place of work. Functional economic need must be related to a rural resource based activity such as full-time agriculture or horticulture and the nature of the activity or business must require the person to live at on or in close proximity to the business. Similar part-time occupations can also be considered where it can be demonstrated that it is

	The person can work from home or commute to work daily.	the predominant occupation. The applicant must be able to provide documentary evidence that the employment is fulltime or predominant employment when part-time. The applicant must be able to demonstrate that the landholding is such to support a viable enterprise.
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5.1.2. **Table 4-6 Definition and Notes** - . Under both Category A and B, the persons must not have previously owned a rural house. However, the Planning Authority, may in exceptional circumstances, give consideration to such persons. These circumstances include:

- a) The person is no longer in possession of that home having been disposed of following a legal separation/divorce/repossession/the transfer of a home attached to a farm to a family member and that person can demonstrate that they have a social or economic functional need to live in the local rural area.
- b) The person requires a new purpose built specially adapted house due to a verified medical condition. The person must demonstrate that their existing home cannot be structurally adapted to meet their particular needs

5.1.3. Objectives relevant to this appeal are as follows:

- **Objective SH41** - All planning permissions granted for individual rural dwellings in the open countryside will be a subject to a condition which will require the applicant to enter an occupancy agreement for a period of 10 years from the date of first occupation of the dwelling house.
- **Objective SH42** - All planning permissions granted for individual rural dwellings in the open countryside will be subject to a condition that the dwelling house be used as a permanent residence only.

5.1.4. **Section 4.9.6 Pre-fabricated Timber Homes (Log Cabins) in Rural Nodes and the Open Countryside** - The Council will consider the development of pre-fabricated

timber homes e.g., log cabin type structures on a case-by-case basis on sites in the open countryside.

- 5.1.5. **Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)"** – Environmental Protection Agency, 2009 – Sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

5.2. **Natural Heritage Designations**

- 5.2.1. The appeal site is not located in or immediately adjacent to a European Site. The Wexford Harbour and Slob is c6.5km to the east of the appeal site.

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. 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. The third-party appeal has been prepared and submitted by Esther Hunt, Staplestown, Wexford and may be summarised as follows:
- **Noise** – The log cabin will be close to the appellants home and they will be able to hear a lot of noise from it as the log cabin would not be as soundproof as a normal house.
 - **Privacy** – The appellants house, garden and driveway will be constantly overlooked. The window at the end of the appellants hall is not frosted glass, it is a normal window.
 - **Location** – The drawings don't represent just how close the dwelling is to the appellant's house. The site is small, and a normal house would not receive planning permission on such a small area. a log cabin should be treated no

differently. The Stennigns previously sold 3 sites from their original field and what remains is too narrow to fit another dwelling

- **Decision** – Concern is raised that the scheme was not held to the same standards as other planning applications
- **Further Information** – The applicant failed to comply with the further information request and still got planning permission. It is improper to grant permission without the relevant documentation as requested. Concern is raised that the application received preferential treatment.
- **Landscape** – The landscape plan is inadequate, and the trees proposed will not address privacy concerns. There is a 14m exposed gap along the boundary line separating both properties. In the years it will take the plants to grow the appellants is left being overlooked. This is an unacceptable solution.
- **Self-Contained Accommodation** – As per the Wexford County Council website “the provision of a self-contained residential unit for a family member will be considered subject to compliance with the following standards”:
 - 1) The unit must be attached to the main dwelling and must be accessible from the main dwelling house via an internal door
 - 2) The unit should consist of no more than a combined kitchen / dining / living room, a WC bathroom which must be fully accessible and contain no more than two bedrooms

The self-contained accommodation unit is not attached to the main dwelling and has 3 bedrooms

- **Alternative Location** - A better location should be found on another field owned by the applicant’s family and that does not infringe upon the appellants privacy and impact on their home.

6.1.2. The appeal was accompanied by the following:

- Further information request
- Further information response
- Extract from Case Planners Report

- Email correspondence between the appellant and Wexford County Council in relation to prefabricated timber homes
- Site photos and site photomontage

6.2. Applicant Response

6.2.1. None

6.3. Planning Authority Response

6.3.1. None

6.4. Observations

6.4.1. None

6.5. Further Responses

6.5.1. None

7.0 Assessment

7.1. This assessment is based on plans submitted to the Planning Authority on the 8th November 2021 as amended by further information submitted on the 12th December 2021 together with details and particulars submitted to An Bord Pleanála.

7.2. I note the concerns raised in the appeal that the scheme was not held to the same standards as other planning applications and that the applicant failed to comply with the further information request. I do not consider this to be a matter for An Bord Pleanála. The current development before the Board is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application. Further I

have considered the information available on file and I am satisfied that together with my site inspection that there is adequate information available to consider the appeal.

7.3. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Residential Amenities
- Traffic Impact
- Other Issues
- Appropriate Assessment

7.4. **Principle**

7.4.1. Planning permission was sought on the 8th November 2021 for the retention of works completed on-site consisting of the installation of a gravel base together with permission for the erection of a timber log cabin accommodation unit (58.4 sqm) and all associated site works. While not explicitly stated in the public notices the development is to be served by a wastewater treatment plant and soil polishing filter. Details of a biodegradable solution was submitted together with a site characterisation form. This is a standalone development that is self-contained.

The rural settlement policy for Wexford County is set out in Chapter 4 of the Wexford County Development Plan 2022 – 2028. Map 1 – Rural Area Types identifies the appeal site as within an area of Strong Urban Influence. I refer to Section 4.9.1 - Single (One-Off) Rural Housing Policy Context where it states that in order to be considered for a single dwelling in the open countryside, an applicants must meet either an economic or social need (subject to other planning criteria). Applicants will also need to demonstrate compliance with the qualifying criteria for that category and the applicable rural area criteria as set out in Table 4.6 and the accompanying definition and notes. Relevant section of the Development Plan is set out in Section 5.1 above.

7.4.2. Having regard to information on file together with the criteria set out in Table 4.6 I consider that the applicant should be assessed under the following Category A (social need) criteria:

- The applicant is from the area and wants to build next to her family home.
- The applicant attended the local school from 1977 to 1985 and their children also attended (information submitted).
- The site adjoins the applicants parents home.

7.4.3. While the applicant satisfies the Category A criteria as set out in Table 4.6 the definition and notes attached to Table 4.6 require that the persons must not have previously owned a rural house. The applicant in this case has previously owned a house. However, the Planning Authority, may in exceptional circumstances, give consideration to such persons where the person is no longer in possession of that home having been disposed of following a legal separation. While I note that the home has not been disposed of I also note that the applicant needs to move out of the family home. Having regard to the information submitted on the file I am satisfied that applicant meets the exceptional circumstances in this case. Having regard to the information available on file I am satisfied that the applicant has demonstrated a social need to reside permanently at this rural area in accordance with Table 4.6.

7.4.4. Objective SH41 of the Development Plan also requires that all permission granted for rural housing will be subject to an occupancy condition restricting the use of the dwelling to the applicant or members of his/her immediate family as a place of permanent residence for a period of ten years from the date of first occupancy. It is recommended that should the Board be minded to grant permission that such a condition be attached.

7.4.5. Overall I am satisfied that the applicant meets the social need criteria set out in Table 4.6 of the Development Plan. As set out above it is recommended that should the Board be minded to grant permission that an occupancy condition be attached.

7.5. Residential Amenities

7.5.1. The appellant resides in the adjoining property to the west of the appeal site and raises concerns that the development will impact on their residential amenities by reason of noise, overlooking, proximity, size of site and inadequate landscaping.

- 7.5.2. In terms of design and siting I refer to Section 4.9.6 Prefabricated Timber Homes (Log Cabins) in Rural Nodes and the Open Countryside. The scheme comprises a modest timber log cabin measuring 2.79m in overall height to pitched roof and 58.4sqm in overall floor area (11.7m long x 6.0m wide) that is positioned diagonally on the site. I am satisfied that the siting of the unit is sensitively sited to ensure that it blends in with its surroundings and landscape setting and would not be visually prominent at this location. The unit is simple in form and design and does not have the characteristics of alpine dwellings.
- 7.5.3. With regard to the impact of the scheme on the adjoining property to the west it was evident on day of site inspection that there is a mature, thick, tall boundary hedge along the western boundary of the site between the appeal site and the appellants property. However, there is a significant gap in this hedge where the gable of the appellants property is clearly visible. Site photos refer. As a result I share the some of the appellants concerns. To this end I refer to the landscape plan and details submitted. While it will take some time for the scheme to come to fruition I am satisfied that it will negate an potential negative impacts on the appellants residential amenities. It is however recommended that a condition be attached requiring that any plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the Planning Authority.

7.6. Traffic Impact

- 7.6.1. Access to the site is taken from the existing hard surfaced (compressed gravel) right of way leading to applicants parents' house and that adjoins the appeal site to the east. The existing agricultural entrance serving the site from the public road is to be closed and landscaped. The provision of access onto this laneway is considered acceptable and the existing visibility spay and sightlines onto public roadway considered satisfactory.
- 7.6.2. Having regard to the foregoing together with my site inspection I am satisfied that the site entrance is adequate to serve the proposed development and that subject to the implementation of the measures outlined in the application that the vehicular

movements generated by the proposed development would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic movements in the immediate area.

7.7. Other Issues

- 7.7.1. **Development Contributions** – I refer to the Wexford County Council Development Contribution Scheme. The development is not exempt from the requirement to pay a development contribution. It is therefore 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

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development, the nature of the receiving area (the proposed development has demonstrated that a wastewater treatment plant and surface water soakaway can both be safely accommodated at the site), the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

8.0 Recommendation

- 8.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the following reason.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the policy and objectives as set out in the Wexford County Development Plan 2022 – 2028 in respect of rural residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted

development in the area it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing visual character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála, 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>Reason: In the interest of clarity.</p>
2.	<p>Prior to commencement of work on site that the site shall be landscaped in accordance with the Landscaping Plan submitted with the application. All planting shall be adequately protected from damage until established. All plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
3.	<p>a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least ten years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to</p>

	<p>commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area</p>
4.	<p>a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
5.	<p>a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from</p>

	<p>roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.</p> <p>Reason: In the interest of traffic safety and to prevent pollution.</p>
6.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
7.	<p>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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall</p>

	<p>be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Mary Crowley

Senior Planning Inspector

29th November 2022