



An
Bord
Pleanála

Inspector's Report

ABP-313349-22

Development	Retention of change of use from garage to a granny flat and all associated site works.
Location	Cnoc na Gréine, Moycullen, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	2260033
Applicant	Rachel Condon
Type of Application	Retention Permission
Planning Authority Decision	Refuse Retention Permission
Type of Appeal	First Party
Appellant	Rachel Condon
Observer(s)	None
Date of Site Inspection	6 th September 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of a local access road (L-53891), c. 0.7 km north of the junction with the R336, at Cnoc na Gréine. The appeal site is located within a rural area, outside of a settlement.
- 1.2. The appeal site accommodates a recently constructed detached dormer style dwelling. There is a detached structure/granny flat to the rear/east of the dwelling. The lands to the east/rear of the appeal site are indicated as being within the ownership/control of the first party, as depicted by the blue line boundary. Agricultural sheds and a fenced paddock are located to the east of the granny flat structure.
- 1.3. The adjoining area is rural in character and there are a number of similar style detached dwellings in the vicinity of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises retention permission of a change of use from a garage to a granny flat, and associated site works.
- 2.2. The garage has a stated floor area of 57 sqm. and accommodates 2 no. bedroom (1 no. double en-suite bedroom and 1 no. single bedroom), in addition to a living area, utility and bathroom.
- 2.3. From reviewing the permitted drawings associated with PA. Ref. 16/1613 I note that the elevations as permitted differ compared to what has been constructed. I also note the position of the structure on the site differs compared to that as permitted under PA. Ref. 16/1613, specifically the structure is set off the northern site boundary c. 4.2 metres, whereas under PA. Ref. 16/1613 the structure was set off this boundary 2.5 metres.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 21st March 2022 for 1 no. reason which can be summarised as follows;

1. The Planning Authority is not satisfied that the proposed development is in accordance with the provisions of Development Management Standard 4 of the Galway County Development Plan 2015- 2021 by reason of the nature, design and configuration of the proposed development and furthermore that a residential unit at the location proposed would be in accordance with the provisions of objectives RHO 1 and RH04 of the current the Galway County Development Plan 2015- 2021.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the Planning Officer includes the following comments;

- The Planning Authority have serious concerns regarding the precedent the proposed detached granny flat would set if permitted in this locally elevated Class 2 Landscape, which is also located within a Protected Focal Point/View.
- The site is located within the GTPS and the applicant's mother has not proved compliance with RH01 of the County Development Plan 2015 – 2021. A residential unit at the location proposed would not be in accordance with the provisions of objectives RHO 1 and RH04 of the Galway County Development Plan 2015- 2021¹.

The report of the Planning Officer recommends a refusal of permission consistent with the Notification of Decision which issued.

3.2.2. Other Technical Reports

None received.

3.3. **Prescribed Bodies**

None received.

¹ I note that Objectives -RHO1 and RHO 4 of the Galway County Development Plan 2015 – 2021 related to the provision of rural single houses in areas under strong urban influence and in Gaeltacht areas under the previous County Development Plan.

3.4. Third Party Observations

None received.

4.0 Planning History

Appeal Site:

PA. Ref. 21/1726 – Permission REFUSED for the retention and completion of the change of use of a garage to a granny flat. Reasons for refusal related to the detached nature of the proposed granny flat and rural housing policy considerations.

PA. Ref. 16/1613 – Permission GRANTED for a house, garage and waste water treatment system.

PA. Ref. 16/542 - Permission REFUSED for a house, garage and waste water treatment system. Reasons for refusal concerned house design, public health and traffic safety.

5.0 Policy Context

5.1. Development Plan

5.1.1. The proposed development was considered by the Planning Authority under the Galway County Development Plan 2015-2021 however the Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan.

5.1.2. The appeal site is not subject to any specific land-use zoning under the Galway County Development Plan 2022-2028. The appeal site is located within the Galway County Transportation and Planning Study Area (GCTPS).

5.1.3. In terms of Landscape Character Type, the appeal site is located within the 'Coastal Landscape' (see Appendix 4 of CDP). Regarding landscape sensitivity, the appeal site is located within a Class 3 'Special Sensitivity Landscape'. The appeal site is not affected by any protected views (see Map 08, Appendix 4) or scenic routes (see Map 09, Appendix 4).

5.1.4. The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

DM Standard 5: Dependent Relative Accommodation/Granny Flats (Urban and Rural)

Proposals for this accommodation should demonstrate:

- *A bona-fide need for such a unit;*
- *Take cognisance of the current Housing Crisis;*
For a new structure, a physical connection to the main house with direct access to the main dwelling is desirable but not a requirement. The conversion of an existing Detached Garage to create accommodation for a family member in need of accommodation can be considered;
That the proposal does not impact adversely on either the residential amenities of the existing property or the residential amenities of the area;

Where the proposal is attached to the main house, that the accommodation can revert back to being part of the original house when no longer occupied by a member of the family.

All applications for family flat development shall comply with the following criteria:

- *The flat shall be modest in size and shall not have more than 2 bedrooms, except in exceptional circumstances. The unit shall not exceed a gross floor area of 75 square metres;*
- *The flat shall not have a separate access provided to the front elevation of the existing dwelling;*
- *The flat shall remain in the same ownership as that of the existing dwelling on site. In this regard, the flat shall not be sold or otherwise legally transferred, other than as part of the overall property.*
- *Where attached to the original dwelling is being proposed the design proposed shall enable the flat to easily fully revert to being part of the original house when no longer occupied by the family member(s);*
- *If the site is not connected to public mains, the existing wastewater treatment system on site must be capable for any additional loading from*

the flat, and if not proposals should be submitted to accommodate the additional loading.

5.2. Natural Heritage Designations

- Moycullen Bogs NHA (Site Code: 002364), c. 100 metres east.
- Galway Bay Complex SAC (Site Code:000268), c 3.5 km south – east.
- Galway Bay Complex pNHA (Site Code:000268), c 3.5 km south – east.
- Inner Galway Bay SPA (Site Code:004031), c 3.5 km south – east.

5.3. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) and therefore is not subject to EIA requirements.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

- The applicant's mother urgently requires the granny flat, her health has deteriorated rapidly over the last few years. Correspondence in support of her requirement has been submitted with the application, including letters from doctors, including consultants, and a letter from the applicant's mother.
- A connected granny flat would require the construction of a new extension. A more cost effective way of providing the required accommodation is to convert the garage. Had the garage not been constructed, the construction of a granny flat attached to the dwelling as an extension would have been suitable.
- Rural housing policies do not apply to granny flats.

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None received.

7.0 **Assessment**

7.1 I consider the main issues in the assessment of this appeal are as follows:

- Scope of Appeal
- Principle of Development and Compliance with Policy on 'Dependant Relative Accommodation/Granny Flats'
- Impact on Visual Amenity
- Impact on Residential Amenity
- Appropriate Assessment
- Matters Arising

7.2. **Scope of Appeal**

7.2.1. The development description contained in the public notices refers to retention permission for a change of use from a garage to a granny flat and associated site works. From reviewing the permitted drawings submitted under PA. Ref. 16/1613 (i.e. 'the parent permission') I note that the location of the structure constructed on the site differs compared to what was permitted under PA. Ref. 16/1613. Additionally, changes have been made to elevations in terms of window and door opes. I note that these changes have not been included in the development description contained in the public notices, with retention permission being sought solely for a change of use, and associated site works. I do not consider that associated site works would include the repositioning of the structure or elevational changes. As such, I consider that this appeal relates to retention permission of the change of use from a garage to a granny flat and associated site works. Having regard to the forgoing, should the Board be minded to grant retention permission for the proposed development, I recommend that

a condition is attached linking the development permitted to the development description contained in the public notices.

7.3. Principle of Development and Compliance with Policy on ‘Dependant Relative Accommodation/Granny Flats

7.3.1 The proposed development comprises retention permission for the change of use of a detached garage to use as a granny flat. DM Standard 5 of the Galway County Development Plan 2022 – 2028 sets out a number of criteria which are required to be met in respect of proposals for dependent relative accommodation/granny flats. I note that DM Standard 5 applies to both urban and rural areas. Regarding these criteria, and noting the information submitted with the planning application and the appeal, I consider that the first party has adequately demonstrated a bona-fide need for the proposal, through the submission of information concerning the applicant’s mother’s medical requirements. I also note the prevailing housing crisis at the time of my assessment and I have had due regard to same.

7.3.2. DM Standard 5 provides that proposals for granny flats may be considered in situations where a new structure is proposed and this structure is not directly attached to the main dwelling, and in situations where the proposal entails the conversion of an existing detached garage. I therefore consider the principle of the proposed development, comprising a detached structure, to be acceptable in this regard.

7.3.3. DM Standard 5 requires that proposals for granny flats do not impact adversely on either the residential amenities of the existing property or the residential amenities of the area. Noting the scale of the proposed granny flat and its location to the rear of the host property, I do not consider that the proposal would give rise to any significant negative impacts on the residential amenity of the existing host property or on the amenity of the area.

7.3.4. Under DM Standard 5, proposals for granny flats are restricted to accommodating no more than 2 no. bedrooms and not exceeding 75 sqm. The proposal contains 2 no. bedrooms and has a floor area of 57 sqm. It is also a requirement of DM Standard 5 that proposals for family flats² do not have a separate access to the front elevation of

² DM Standard 5 refers to ‘family flat’ however I consider family flats and granny flats to be the same.

the existing dwelling. As the proposal comprises the conversion of an existing detached garage it will not result in a separate access to the front of the existing dwelling, in other words it will not result in 2 no. front doors on the main dwelling.

7.3.5. DM Standard 5 requires that granny flats remain in the same ownership as the host property. I consider that this can be addressed through a planning condition in the event of a grant of retention permission.

7.3.6. DM Standard 5 requires that where a proposal for a granny flat is not connecting into a public system, that there is sufficient capacity in a receiving waste water treatment system to cater for the proposal. I note that the on-site waste water treatment system permitted under PA. Ref. 16/1613 had a PE capacity of 8 PE (i.e. to cater for 2 no. double bedrooms and 2 no. single bedrooms, therefore 6 occupants). The proposed granny flat is to be resided in by the applicant's mother, although I note 2 no. bedrooms (with potential for 3 no. occupants) are indicated on the floor plans. On balance, noting the spare capacity of 2PE in the waste water treatment system on the site and the occupancy of the proposed granny flat as indicated in the information submitted, I consider that there is adequate capacity to cater for the proposed development.

7.3.7. Having regard to the forgoing, I consider that the proposal would comply with DM Standard 5 of the Galway County Development Plan 2022 – 2028.

7.4. Impact on Visual Amenity

7.4.1. The proposed development is for the retention of a change of use. As addressed at paragraph 7.2, the structure as constructed differs when compared to what was permitted under PA. Ref. 16/1613. I note that this issue has not been raised by the Planning Authority. Notwithstanding the changes which have been made, which do not come under the scope of this appeal, I do not consider that the scale of the proposed granny flat would give rise to any significant negative impacts on the visual amenity or character of the area. Additionally, the structure is located to the rear of the main dwelling and is not overtly visible from the public road, or from the adjoining area.

7.5. Impact on Residential Amenity

7.5.1. The proposed development entails the habitation of a structure which was previously permitted as a domestic garage to the rear of the dwelling. Having regard to the nature and scale of the proposed granny flat and its single storey nature, I do not consider

that any significant negative impacts would arise on the amenity of neighbouring property. The appeal site is substantial in size and in this regard I am satisfied that the host property retains a sufficient area of private amenity space.

7.6. Appropriate Assessment

7.6.1. Having regard to the nature and limited scale of the proposed development, the existing permitted on-site waste water treatment system and capacity in same, the developed nature of the landscape between the site and European sites and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

7.7. Matters Arising

7.7.1 The adopted Galway County Council Development Contribution Scheme 2016 provides that house extensions and domestic garages/sheds shall be exempt from development contributions.

7.7.2. I consider granny flats to be analogous with an extension to a dwelling, as they provide additional living accommodation to the main dwelling, and when permitted are conditioned in this manner. The Development Contributions, Guidelines for Planning Authorities, provide that no exemption or waiver should apply to any applications for retention of development. However, given that the proposal has been considered as an extension to a dwelling, a category of development which is exempted from development contributions under the Galway County Council Development Contribution Scheme 2016, I do not consider that the proposal would attract a development contribution, should the Bord be minded to grant retention permission for the proposal.

8.0 Recommendation

8.1. Having regard to the above it is recommended that retention permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the prevailing pattern and character of existing development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the retention of the development as proposed would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would not be prejudicial to public health. The 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 retained 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 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>The development hereby permitted shall be restricted to that as described in the public notices.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The proposed granny flat shall be used solely for that purpose and shall revert to use as part of the main dwelling on the cessation of such use. The granny flat shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To protect the amenities of property in the vicinity.</p>
4.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services. The granny flat shall be connected to the on-site waste water treatment system on the site.</p>

	Reason: In the interest of public health.
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Ian Campbell
Planning Inspector

9th September 2022